



REPORT

To: Shetland Islands Council

28 October 2009

From: Head of Finance

**Shetland Islands Council Accounts 2008/09:
Qualification Regarding Grouping Of Accounts With Shetland Charitable Trust**

Report No: F-035-F

1. Introduction

- 1.1 Members will be aware that the Council's external auditors (Audit Scotland) have repeated the qualification of the Council's accounts for 2008/09 for failing to group the accounts of the Council and the Shetland Charitable Trust. A consequence of this is that Audit Scotland will report this qualification on to the Accounts Commission for Scotland, who will then have to consider what action to take against the Council. Discussions I had with Audit Scotland have led me to the conclusion that it would be helpful for the Council to clarify its views on this matter, not least for the benefit of the Accounts Commission, and this report is intended to provide that clarification.

2. Background

- 2.1 Attached as Appendix A is the report of the then Chief Executive to the Council on 18 February 2009. That report recommended, and the Council approved (SIC Min Ref 12/09), that the Council should seek the necessary information from the Shetland Charitable Trust in order to comply with the Accounts Commission's view that the Council and Charitable Trust accounts should be grouped.
- 2.2 Subsequent discussions with Audit Scotland have indicated that they took from this decision, and further discussions that they had with the former Chief Executive, that the Council now agreed with the conclusion that account grouping was the correct thing to do. They were therefore perplexed by the subsequent decision of the Shetland Charitable Trust on 26 March 2009 (SCT Min Ref 28/09) to not make the necessary information available to the Council to allow the grouping of accounts. Audit Scotland are having difficulty comprehending the seemingly contradictory signals from the Council and the Charitable Trust, especially given their continuing view that these bodies are closely connected, given that they are substantially made up of the same people as Councillors and Trustees.

- 2.3 It is my long-held view that Audit Scotland misunderstands the relationship between the two bodies, and that this whole drawn-out business and their current perplexity stems from that misunderstanding. It is now important that the Council speaks clearly on the issue, in order to assist the Accounts Commission in its deliberations on what action to take over the repeated qualification of the Council's accounts.

3. The Auditors' View

- 3.1 The Audit Scotland view, as put by the Controller of Audit in her Section 102 report to the Accounts Commission on 9 December 2008, which the Commission accepted, is that the following factors are relevant in determining the requirement to group the Shetland Charitable Trust accounts in the Council's accounts:

3.1.1 "SCT provides services (arts and culture, amenity and environment, recreation and care facilities) which benefit the Council community, in addition to those services provided by the Council.

3.1.2 Council representation on the trust (comprises) all 22 councillors...sitting as trustees...This link between Council membership and representation on the trust is an indication of "influence and common interest".

- 3.2 There seem to me to be a number of defects in this view:

3.2.1 It would be more accurate to say that the SCT funds the provision of such services by other bodies, and that these benefit the Shetland community.

3.2.2 Whether these services are described as "in addition to" or "distinct from" or "unconnected with" those services provided by the Council is arguable, but of little real relevance. The same sterile argument could be had about the divisions of service between the Council and NHS Shetland, and there is no need to group those accounts.

3.2.3 While the link between Council membership and representation on the Trust may be an **indication** of influence and common interest, it is surely a more telling **indication** of the limitations of any such influence that in the case in question the Trust can, and has, rejected a request for cooperation from the Council.

4. The Charitable Trust's View

- 4.1 The Charitable Trust Report CT0903021 to the meeting on 26 March 2009 was taken in private and is therefore not fully available for open consideration by the Council. Nevertheless, I have conferred with officials of the Trust, and they have agreed to make the following summary of its findings available to the Council.

- 4.2 In December 2006 the Trust considered an earlier request to cooperate in the grouping of accounts with the Council, but did not accede on the grounds that the SCT is an independent body in its own right, that

Trustees must act as guardians of the Trust's assets and interests on behalf of the people of Shetland, and that Trustees' responsibilities are solely to the charity. At that time the Trust sought further legal advice (considered by the Trust on 30 May 2007) which corroborated their view.

- 4.3 In response to the Council's most recent request for cooperation in the grouping of accounts in February 2009 the Charitable Trust considered further legal advice, which considered the relationship between the Council and the Charitable Trust, but failed to find justification for group accounting. The central conclusion was that the SCT is an entirely independent body over which neither the SIC nor indeed any other body exerts control or has any benefit by right. This forthright conclusion led to the approval of the recommendation that Trustees should not make available any information for the purpose of preparing group accounts with the Council.

5. The Council's View?

- 5.1 Below is my considered view on the issue of Council/Charitable Trust accounts grouping, which I invite the Council to consider before stating its view on the matter.
- 5.2 The Shetland Charitable Trust, while it has its origins in negotiations between the Council and the oil industry in the mid 1970s, does not belong to the Council, and nor is it subordinate to the Council. It is entirely independent.
- 5.3 The Councillors, who sit as Trustees on the Charitable Trust, are not appointed to do so by the Council. They are appointed as Trustees as a consequence of the Trust's decisions about the contents of their Trust Deed, and the individuals are chosen by the Shetland electorate.
- 5.4 The Charitable Trust is a body with independent means. Its financial resources are originally from the oil industry, and subsequently from its own investment of those resources. Its finances do not come, and never have, from the Council.
- 5.5 Contrary to the view of the Council's external auditors, it is possible (and indeed it is legally necessary) for Councillors to act solely in the interests of the Council and its stakeholders (primarily the Shetland Community), and for Trustees to act solely in the interests of the Charitable Trust and its stakeholders (primarily the Shetland Community). The fact that both bodies have a duty of care towards the Shetland Community is not a source of conflicts of interest, but is rather a helpful foundation of common interest.
- 5.6 Given, though, the Councillor's duty to look after the interests of the Council, and the Trustee's duty to look after the interests of the Trust, it is perfectly appropriate for an individual Councillor to vote in favour of asking the Trust to cooperate in the grouping of accounts, and for the same individual as Trustee to vote to reject that request. I believe that this essential verity, which has been a part of the relationship between the Council and the Charitable Trust for over thirty years, has been completely misunderstood or ignored by the Council's external auditors.

- 5.7 The Council has no power to coerce the Charitable Trust to do anything it does not choose to do. This is amply proven by the Trust's entirely valid decision (in terms of the advice it has received and the process it has gone through) to not cooperate in the grouping of accounts. Its ability to so decide, and the absence of any means by which the Council can enforce cooperation, should in my view be all the proof the Council's external auditors should require to establish that the relation between the two bodies is not such as would warrant the creation of group accounts.
- 5.8 The plain fact is that the Council can do no more to make the grouping of accounts happen. Once the Council had asked once again for Charitable Trust cooperation, and had once again been refused, it is powerless to act further. No action by Audit Scotland, the Controller of Audit or the Accounts Commission would empower the Council to force the independent Charitable Trust to do something which it judges to be not in its interests. A total impasse has been reached, which could only be locally broken if Councillors voted as Trustees to cooperate with account grouping, contrary to the advice they have received as Trustees (which would be a breach of their legal duty as Trustees). The only other possibility for local progress is if the advice to the Trust completely changed, but that is extremely unlikely and completely beyond the Council's ability to control or influence.
- 5.9 There is a secondary question (which is seemingly of interest to the external auditors) about whether, in asking for Charitable Trust cooperation in February 2009 the Council did so out of conviction that group accounting is the right thing to do, or whether it did so against its convictions because it was the last thing it could do to either break the impasse or prove the impossibility of doing so. My view is that it was the latter, but that is something the Council will now need to clarify. At its very simplest, my view is that if the Council cannot oblige a body to cooperate in the grouping of accounts then de facto a group relationship does not exist. And that is fundamentally the case with regard to the Charitable Trust. Any other view seems to me inherently nonsensical.

6. Policy and Delegated Authority and Links to the Corporate Plan

- 6.1 Responsibility for the final accounts of the Council resides with the full Council.

7. Conclusions

- 7.1 The Council has no power to oblige the Shetland Charitable Trust to cooperate in the grouping of the accounts of the two independent bodies. Having asked for the Trust's cooperation on several occasions it has exhausted all its options to make group accounting happen.
- 7.2 The Charitable Trust has taken proper legal advice and on more than one occasion has refused to cooperate with the Council in the grouping of accounts.
- 7.3 In these circumstances the Council can do no more. The impasse is complete and will continue until parties other than the Council change their position. That being the case the qualification of the Council's

accounts, and any other action which the Accounts Commission might consider taking against the Council, seems irrational and unjust.

8. Recommendations

8.1 I therefore recommend that the Council considers this report and:

8.1.1 recognise that it can do no more to achieve the grouping of the Council and Charitable Trust accounts;

8.1.2 clarify whether it asked for Charitable Trust cooperation in February 2009 out of **EITHER:**

8.1.2.1 conviction that the grouping of accounts was the right outcome;

OR:

8.1.2.2 whether it asked for cooperation because it was the last thing it could do to try and break the impasse, or to prove that it could not break the impasse; and

8.1.3 ask the external auditors and the Accounts Commission for their understanding of the Council's impossible position, and for the removal of accounts qualification or any threat of other sanctions against the Council.

Date: 19 October 2009
Ref: GJ/DS

Report No: F-035-F



Shetland Islands Council

REPORT

To: Shetland Islands Council – 18 February 2009

From: Chief Executive

**CE-06-F
Statutory Report Annual Audit**

1. Background

- 1.1 Due to what was judged by the Councils external auditors to be a failure of the Council to include in its accounts for 2007/2008 required information on Shetland Development Trust and Shetland Charitable Trust the accounts were 'qualified'.
- 1.2 Resultantly, a statutory report was placed with the Accounts Commission by our auditors Audit Scotland. That report is attached as Appendix A.
- 1.3 Following consideration of this report by the Accounts Commission they have stated their findings which are attached as Appendix B.
- 1.4 As stated the Council is required to take all appropriate action without further delay to resolve the situation and fully report, in the required format, the accounts of Shetland Development Trust and Shetland Charitable Trust along with related subsidiaries in the 2008/2009 financial accounts of the Council.

2. Proposals

- 2.1 Following the decision to re-establish the Councils Development Committee to undertake decision making for Shetland Development Trust and the Council assuming the role as sole Trustee there are no issues regarding grouping the accounts. These will be included in the 2008/2009 Council accounts.
- 2.2 The Shetland Charitable Trust when approached previously to provide their accounts in the form required for the Council to include in its accounts on the basis of their own legal advice declined to do so.

- 2.3 There are no implications for the Council in complying with the Accounts Commission's requirements however there are certainly ones for not doing so. Resultantly I intend to communicate the Council's requirements once more to Shetland Charitable Trust with the intention of acquiring the required information from the Trust such that the Council can comply with the Accounts Commission's findings on this matter.

3. Financial Implications

- 3.1 There are no direct financial implications arising from the report.

4. Policy and Delegated Authority

- 4.1 There is a Statutory requirement for the findings of the Commission to be considered at a meeting of the Full Council and this obligation cannot be delegated to any other Committee or Sub-committee of the Council.

5. Recommendations

I recommend that the Council

- 5.1 Note the statutory report and Accounts Commission's findings in relation to the Councils 2007/2008 accounts in which Shetland Development Trust and Shetland Charitable Trust are required to be presented as part of the Councils 'group accounts'.
- 5.2 Note that the accounts for Shetland Development Trust will be included within the Councils 2008/2009 accounts.
- 5.3 Endorse the action I will take to seek to enable the Council to include the accounts for Shetland Charitable Trust in the Council's group accounts for 2008/2009 in order to comply with the Accounts Commission findings.

MHG/IS
CE-06-F

30/01/09



REPORT

To: Shetland Islands Council

28 October 2009

From: Capital Programme Service Manager

Report No: CPS-18-09

Subject: Progress Report – Capital Programme

1.0 Introduction

- 1.1 This report seeks to advise the Council on the progress of the programme with a view to establishing an overview for all projects.
- 1.2 This report also advises on slippage and savings that has occurred within the Capital Programme and makes recommendations on its allocation.

2.0 Links to Council Priorities

- 2.1 The proposals within this report will link to the Council's corporate plan by enhancement of skills development and learning.
- 2.2 Section 3 of the Corporate Plan commits us to manage the Capital Programme in line with available funds.
- 2.3 As part of the Council's commitment to sustainability within the Corporate Improvement Plan we have undertaken to define our priorities so we can sustain the services we want to provide and help develop our economy.

3.0 Background

- 3.1 In response to recommendations from the Audit and Scrutiny Committee the tables have been broken down by service area. We have also added programme progress, however this is very much dependant on information provided to Capital Programme Services. In cases where such information is not forthcoming this is highlighted in the Appendix A.

- 3.2 The management and control of the Capital programme will help to keep expenditure within sustainable limits. Continuation with recommendations would reinforce the best value message and contribute to the change in culture needed to control expenditure.

4.0 Slippage/ Savings and Proposed Re-allocation

- 4.1 A total of £202,079 slippage has been identified as follows (also see Appendix B).

General Fund Capital Programme

- Care Homes Fire Upgrades (GCA0231) Slippage £100,000
Revised contractor programme following tender.
Some works carried forward into 2010/11.
- Adjustments within Burial Grounds rolling programme. £76,079

Total Slippage/ Savings identified £176,079

- 4.2 It is proposed to allocate some of this slippage/ savings to the projects listed in Appendix B.

General Fund Capital Programme

- Education Capital Maintenance (GCE1500) Additional £100,000
Janet Courtney Hostel fire upgrade investigation has identified that other services require replacement. Works more complicated than anticipated due to structure and service routes within building.
- PC & LAN Replacement (GCX4300) Additional £25,700
- Schools ICT Equipment (GCX4312) Additional £26,100
- LV/MV Photocopiers (GCX4319) Additional £7,500
- Shetland Public Sector Network (GCX4323) Additional £29,700
All rolling programmes were subjected to a 10% cut in 2009/10 budget. ICT requesting top up to original bid in order that the original planned programme of works can be carried out.
- Rova Head Reinstatement (GCY5133) Additional £14,000
Revised budget following Final Account preparation.
- New Mid Yell Workshop (GCY5133) Additional £40,000
The lowest tender is £25k over the estimate of £120k In the 2006 feasibility report. This does not include the internal works which will be another £25k.

Funding required over two years, £40k in 2009/10 and £10k in 2010/11.

- B9081 Mid Yell (Hillend Section) (GCY6121) Additional £60,000
This improvement has been extended by 100m, at a Cost of an additional £60k, for the following reasons. Firstly, a safety check of the new cattle-grid arrangements listed several hazards, including poor visibility on the landward approach to the grid (originally proposed to be single-track). Secondly, site observations of traffic indicated that verges were being overrun in this area. Thirdly, Roads staff received a number of complaints from the public once they became aware of where the new two-lane road would end. It should also be noted that this extension will shorten the length of Phase 2 of the improvement of this road.
- North Mainland Roads Office (GCY6405) New £50,000
The Roads squads in this area are currently based at Sella Ness (garage, storage shed for materials and equipment, and offices). However, our rental of the offices will end very shortly: I understand that they are required for marine or oil-industry purposes. The preferred option for replacement is to build a lean-to extension of the garage, containing an office, a mess-room, and toilets. This is estimated to cost £50k, and subject to Planning approval being obtained it would be available by the end of March 2010, when rental of the existing rooms will end. Alternative options were ruled out, such as renting or buying "portacabins" (which would be neither cheap nor appropriate for a permanent installation), and renting rooms elsewhere (which would be impracticable due to the separation from the garage and the storage).

Total additional allocation £353,000

- 4.3 The Capital Programme for future years is the subject of another report to Council, and the future years adjustments identified here have been addressed in that report.
- 4.4 Appendix C gives a summary of the Council's 2009/10 funded capital projects with proposed adjustments.
- 4.5 Appendix A shows project expenditure and progress by service area as requested by the Audit and Scrutiny Committee. Please note that the figures refer to the expenditure position in period 5 (August) but progress comments relate to period 6; this is due to timing in the availability of the latest figures. Please note that budget amendments agreed by the Council on 16 September 2009 are not included on the period 5 accounts.

5.0 Externally Funded - CCTV Lerwick

- 5.1 The CCTV Lerwick project is funded from ring-fenced Scottish Government Anti-Social Behaviour revenue funding. As there is a saving of £50,000 on this project, it should be returned to revenue for use on Anti Social-Behaviour projects.

General Fund Capital Programme (Externally Funded) CCTV Lerwick (GCK2001) Saving	£50,000
Saving identified	£50,000

6.0 Proposal

- 6.1 It is proposed that Members:
- 6.1.1 Note the progress of the current committed projects;
 - 6.1.2 Approve the allocation of slippage/ savings; and
 - 6.1.3 Approve the return of the saving on the CCTV project to revenue for Anti-Social Behaviour use.

7.0 Financial Implications

7.1 General Fund Capital Programme

- 7.1.1 Approved budget strategy for the General Fund Capital Programme is to limit the draw on Reserves to £20 million in 2009/10 (Min Ref 121/08). However with carry forward from 2008/09 the approved General Fund Capital Programme was £21.808m including externally funded projects totalling £335k resulting in total draw on Reserves of £21.473m.
- 7.1.2 Budget adjustments detailed in this, and previous reports, reduces the General Fund Capital Programme budget, and ultimately draw on Reserves from £21.473m to £21.042m for 2009/10. Further slippage is anticipated throughout the year.
- 7.1.3 The total budget for externally funded projects is to reduce by £50k however this will revert back to the original revenue code for use by the Infrastructure Service.

8.0 Policy and Delegated Authority

- 8.1 Decisions relating to approval or variation to the Council's Capital Programme requires approval of the Council (Section 8.0 – Scheme of Delegations).

9.0 Conclusion

- 9.1 The ongoing prioritisation of the existing capital projects will greatly assist with the planning and programming of these works. This should then lead to more economic delivery taking into account the resources available and the prevailing market conditions. The programming will also help local contractors and suppliers to plan their business and training requirements to meet the Council's planned objectives.

10.0 Recommendations

- 10.1 It is recommended that the Council:

10.1.1 Note the progress of the current committed projects;

10.1.2 Approve the allocation of slippage; and

10.1.3 Re-allocate the saving on the CCTV project to revenue.

Our Ref: CPS-18-09-f/GMF/RS

Date: 20 October 2009

Enclosed: Appendix A Capital Programme Progress Report
Appendix B Summary of Budget Adjustments
Appendix C Proposed Funding Allocations 09/10 Capital Programme

Economic Development Unit									
Revised budget		Code	Project	Period 5	Contractual estimate	Estimated outturn	Programme Progress	Project Review Comments	Contractors Performance
34,788		GCD1570	Wind Farm Development	257,776	0	0	No Report		
34,788				257,776					
								Expenditure not yet invoiced to Viking Energy.	
									Action

ICT Projects

Revised budget	Code	Project	Period 5	Contractual estimate	Estimated outturn	Programme Progress	Project Review Comments	Contractors Performance	Comments	Action
231,300	GCK4300	PC/Lan Upgrade	184,857		257,000			N/A		Request additional 25.7K to top-up. 10% cut from budgets last year
77,666	GCK4311	SSIS Upgrade	0		77,666			N/A	Project slipped 77.6 c/f	Request additional 26.1K to top-up. 10% cut from budgets last year
234,900	GCK4312	Computers for Schools	198,829		261,000			N/A		
120,000	GCK4315	IP Phones	96,437		120,000			N/A	Project slipped 120K c/f	
67,500	GCK4319	LV/MV Photocopiers	26,507		75,000			N/A		Request additional 7.5K to top-up. 10% cut from budgets last year
267,300	GCK4323	Shelland Public Sector Network	166,209		297,000			N/A		Request additional 29.7K to top-up. 10% cut from budgets last year
150,000	GCK4329	ICT Planning Project	0		150,000			N/A		
1,148,666			672,839							

Legal & Administration Rolling Programme

Revised budget	Code	Project	Period 5	Contractual estimate	Estimated outturn	Programme Progress	Project Review Comments	Contractors Performance	Comments	Action
135,000	GCB6001	Copper PIPework Replacement	56,291	0	135,000		Ongoing rolling programme			
346,500	GCB6002	Lysina Stonework	294	346,500	346,500		Shelland Amenity Trust to carry out survey/ make stone cutting templates before costs can be firmly established		Survey scaffold to be erected soon	
90,000	GCB6004	DDA Access Audit Construction	1,230	0	90,000		Ongoing rolling programme			
22,000	GCB6006	Ness of Sound Farm	5,298	0	22,000		Legal requirement to maintain property			
	GCB6007	Capital Receipts, Sale of Assets	(3,800)	0	0					
593,500			59,253							

Capital Programme Services

Revised budget	Code	Project	Period 5	Contractual estimate	Estimated outturn	Programme Progress	Project Review Comments	Contractors Performance	Comments	Action
35,000	GCK2000	Feasibility Studies: Overall	795	35,000	35,000	Ongoing Almost complete- anticipated complete end October	Islehamn and Bruce Hostel studies nearing completion	N/A	Main budget allocated to Eric Grey, 35K for completion of small studies	
163,766	GCK2001	CCTV System Lerwick	(15,443)	113,766	113,766		Scotshield on site Feb 09. Accruals made at year end, some expenditure not yet processed. Various final A/C's & Housing move to North Ness included here	N/A	Scottish Government funding c/f from 07/08.	50K saving to be passed back to Infrastructure revenue
112,000	GCK2002	Contingency & Final Accounts	3,876		112,000	Ongoing			Accrual for Brae reroof - payment not processed yet.	
310,766			(10,772)							

Finance

Revised budget	Code	Project	Period 5	Contractual estimate	Estimated outturn	Programme Progress	Project Review Comments	Contractors Performance	Comments	Action
44,035	GCF1302	Electronic Payments System	46,424	44,035	44,035		Project funded from revenue		Not all expenditure through yet	
44,035			46,424							

Sports & Leisure - Grants & Rolling Programme

Revised budget	Code	Project	Period 5	Contractual estimate	Estimated outturn	Programme Progress	Project Review Comments	Contractors Performance	Comments	Action
426,000	GCL3006	Grants Rolling Programme	51,597	426,000	426,000	Ongoing Programme	Most of budget has now been committed	N/A	Various applications processed throughout year	
30,000	GCL3001	Water Based Facilities	21,546	29,618	29,618		362 cft to 08/10	N/A	Marinas committed, but unable to claim full grants by year end 382 cft req. 10/11	Slippage previously reported to council CPS-15-09
88,000	GCL3002	Dyke Repairs	38,060	88,000	88,000	Complete	50 metres left to complete 08/09			
210,000	GCL3003	Play Areas	54,694	210,000	210,000	On target	Rolling Programme on schedule	Excellent		
36,000	GCL3020	Islesburgh CC Capital Maintenance	2,445	36,000	36,000		Works to lower due to start			
3,278,723	GCL4402	Cinema/Music Venue	1,453,077	2,000,000	2,000,000	Slipped	Construction ongoing with piling completed and ground beams ongoing, next stage is blockwork to music venue & cinema enclosures	Delay in early ground works part of contract but contractors intends to mitigate this		Slippage previously reported to council CPS-15-09
4,068,723			1,621,419							

Education Projects

Revised budget	Code	Project	Period 5	Contractual estimate	Estimated outturn	Programme Progress	Project Review Comments	Contractors Performance	Comments	Action
38,300	GCE1171	Little Tilkes	0	383,000	383,000	Drawings progressing	Design revised following consultation & now approved. Drawings progressing for Planning submission & Building Warrant with a view to start on site early in 2010.		Full funding approved at Council 16 September.	334,700 agreed by council 16/09/09
0	GCE1240	Bells Brae Alterations	(3,043)		0	Complete	Final Certificate to be processed retention accrued		Complete	
15,000,000	GCE1304	Anderson High School Replacement	1,472,037	15,000,000	15,000,000		Brief and Project development ongoing into 2010 with input from the Blueprint for Education. Work in conjunction with members.		Council opted for Clickimin site following independent review	
4,422,000	GCE1315	Mild Yell J.H.S.	362,730	4,422,000	4,422,000	ECI Design Stage	The project has been progressed well with a Target Cost agreed with the contractor, and a Notice to Proceed to Construction issued. It is anticipated that construction will commence on site mid October 2009 with completion October 2010. Revised drawings have been signed off.		Following the Council decision of 1 July 2009 to select the larger school (Option B), the total budget allocation was increased to £8.75M	The expenditure forecast identifies a potential overspend on the Capital Programme allowance this financial year (09/10) of approximately £207K whilst retaining the total project spend within budget (future years). It is not proposed at this stage to seek slippage at this stage, but to continually monitor
1,354,500	GCE1500	Maintenance School Buildings	294,041		1,559,000		Increased scope of work on various projects, additional funding in relation to Janet Courtney requested. Due to nature of the construction in the Janet Courtney Hostel the services works more complex than anticipated.		For detailed information on various projects within this programme refer to Services Comm updates	Request additional 100K for Janet Courtney, additional 104K agreed previously by council 16-09-09.
	GCE1512	Re-roofing	(8,000)		0	Complete	Final Certificate to be processed retention accrued			
0	GCE3402	Sandwich JHS Add Support Needs	(7,981)		0	Complete	Final Certificate to be processed retention accrued			
20,814,300			2,109,784							

Social Care Projects

Revised budget	Code	Project	Period 5	Contractual estimate	Estimated outcome	Programme Progress	Project Review Comments	Contractors Performance	Comments	Action
1,825	GCA0120	Special Studies	0		1,825	Recharge		N/A	YE Recharge	
81,158	GCA1000	Special Aids Stock Items	55,899		111,158			N/A	On target - additional 30K required	30K from GCA1005
237,800	GCA1001	Specialist Aids	119,001		237,800			N/A	On target	
40,031	GCA1003	Minor Adaptions	20,040		48,031			N/A	On target - additional 8K required	8K from GCA1005
196,193	GCA1004	Major Adaptions	28,322		196,193			N/A	On target	
124,998	GCA1005	Housing Renovations	5,795		80,998		No detailed report, but BRO advised that the rolling programme was on target. Please note budgets can be moved within rolling programme headings.	N/A	Reduce code to fund additional spend elsewhere in programme	Move 44K to fund potential overspend within rolling prog.
21,024	GCA1006	Professional Fees	8,445		21,024			N/A	On target	
39,316	GCA1007	Specialist Aids Refurbishment	10,716		45,316			N/A	On target - additional 6K required	6K from GCA1005
22,685	GCA1000	Inspection, Health & Safety	21,649		22,685			N/A	On target	
35,871	GCA0101	Building Fabric	82,736		82,736	??	Small projects including floor finishes, room refurbishments, toilet and fire upgrades. Please note budgets can be moved around within rolling programme headings.		Overspend relating to Social Care move to Eric Gray	C Ferguson to advise on funding options re: overspend
33,036	GCA0102	Electrical Sys Upgrade	21,216		33,036				On target	
14,136	GCA0103	Mechanical Sys Upgrade	0		14,136				On target	
1,851	GCA0104	Plant Equip Replacements	1,375		1,851				On target	
18,905	GCA0105	Safety Surfaces	0		18,905				On target	
225,000	GCA0106	Care Home Beds	0		225,000	Brief prepared	Brief and tender documents prepared, tenders sent out 25/09/09. Consultants to be appointed end Oct.		The three elements are: Viewforth - Investigate options for redevelopment. Tain House and Edward Thomason House - Investigate options for additional beds and St Clements Hall, investigate conversion into additional housing units associated with King Erik House. (Feasibility)	Planned programme to carry into 10/11 - carry forward 100K
342,000	GCA0231	Care Homes Fire Upgrade	3,639	242,000	242,000	Ongoing	Overtonlea, Nordalea, Fernlea & Leog complete AVCs to be processed		Joint project CT/SIC, Isleshavn, ET, Laburnum, North Haven, Viewforth and Tain to be programmed	
150,000	GCA0233	Joint Occupational Therapy Centre	433	150,000	150,000	Design Stage	Pedman and Sutherland appointed as Architects and CCOP as Services Engineers during September. Other services carried out in-house by CPS. Project now progressing. (Design)			
76,500	GCA0234	Tain House Capital Maintenance	0	76,500	76,500		Shower works programmed for November			
40,500	GCA0235	Viewforth Capital Maintenance	0	40,500	40,500	Phase 2 started	Shower works programmed for November			
300,030	GCA0236	Monfield Care Home	338,745		2,050,030		100% funding from NHS. Phase 1 complete			Further budget to be created from NHS Funding - agreed 16/09/09
290,000	GCA0237	Eric Gray Replacement	0	290,000	290,000		Tender Documents and EU adverts being prepared for Design Stage Consultants		Funding allocated by council 20 May 2008. Seafield site being investigated as preferred option.	
400,000	GCG0232	Leog Replacement	0	400,000	400,000	Planning submitted	Hjalland / Social Care to agree final detail. Anticipate construction start late Oct / Nov, subject to Planning & Building warrant		Planning consent obtained 31 Aug	
2,692,859			718,012							

Housing Projects

Revised budget	Code	Project	Period 5	Contractual estimate	Estimated outcome	Programme Progress	Project Review Comments	Contractors Performance	Comments	Action
9,872	GCH3100	Staff Accommodation	0	9,872		Ongoing Programme	Programme to be reviewed			
10,958	GCH3102	Chalets	0	10,958		Ongoing Programme				
14,423	GCH3120	Homelessness Housing	0	14,423		Ongoing Programme				
35,253			0							

Environmental Projects

Revised budget	Code	Project	Period 5	Contractual estimate	Estimated outturn	Programme Progress	Project Review Comments	Contractors Performance	Comments	Action
11,000	GCY5114	South Whiteness Burial Ground	1,525	2,000	2,000	Snagging work complete			Reduce by 9K	
358,079	GCY5121	Fetlar Burial Ground	90,429	265,000	265,000	Savings due to lower tender, slippage will be required 10/11			Reduce by 93K, 55K saving and 38K slippage	
0	GCY5123	Lund Burial Ground	170	1,000	1,000	Final A/C			Additional 1K required	Burial Ground RP reduced by 76K on 09/10
10,000	GCY5124	Bixter Burial Ground	0		20,000	Tender works in Dec for Apr start			Additional 10K required	
5,000	GCY5125	Voe Burial Ground	0		5,000	No response from land owner				
5,000	GCY5126	Muckle Roe Burial Ground	0		20,000	Land, design and planning almost complete			Additional 15K funding required for advanced drainage	
10,000	GCY5127	Skerries Burial Ground	0		10,000	Design and land investigation				
230,000	GCY5129	Energy Recovery Plant Update Works	9,351		230,000	Out to tender			Slippage (if any) will be reported in November	
100,000	GCY5132	Esplanade Toilets	4,663	100,000	100,000	Project Complete	LPA not yet invoiced for balance of works		50% with LPA	Additional 14K required for final A/C, but overall project 150K less than anticipated
60,000	GCY5133	Rova Head Reinstatement	3,570		74,000	Work complete, awaiting final A/C				
20,000	GCY5137	Gremista Landfill Phase 2	0		20,000		No report			
126,000	GCY5139	Wheelie Bin Purchase	0		126,000		No report			
0	GCY5302	Callibrate Lab Equipment	(19,218)		0	Insurance Adjustment	Insurance Claim			
0	GCY5504	TF Facility Management Software	54,917			Building Services intend to fund this from revenue savings in SRY5501				Budget to be created from revenue savings - D Williamson to advise
205,000	GCY5505	New Mid Yell Workshop	40,234		245,000	Tenders 50K higher than 2006 estimate				Additional 50K required 40K in 09/10 and 10K in 10/11
2,105	GCY9016	Public Toilet Rolling Programme	480	0	2,105	Fully Committed, but hall committee unable to process final claim before year end (Walls)				
1,142,184			186,121				Budget c/f from 08/09		Balance of £2,105	

Roads Projects

Revised budget	Code	Project	Period 5	Contractual estimate	Estimated outturn	Programme Progress	Project Review Comments	Contractors Performance	Comments	Action
35,000	GCY9200	Minor Works, Roads	100,529		35,000	Roads Rolling Programme no individual reports, but budgets can be moved within budget heads, BRO states there may be some incorrect coding against GCY9206				Transactions incorrectly coded here, Infrastructure to journal to correcty codes
74,000	GCY9201	Development Related Roads	0		74,000					
191,000	GCY9202	Bridge Replacements	655		191,000					
100,000	GCY9203	Footways	20,701		100,000					
168,000	GCY9204	Street Lighting Replacements	72,683		168,000					
0	GCY9205	Plant Purchase	3,589		0					D MacNae to advise
36,000	GCY9206	Traffic Management	54,409		36,000					Ditto comments GCY9200
90,000	GCY9207	AIP	1,464		90,000					

INFRASTRUCTURE SERVICES cont

Roads Projects

Revised budget	Code	Project	Period 5	Contractual estimate	Estimated outturn	Programme Progress	Project Review Comments	Contractors' Performance	Comments	Action
18,000	GCY9208	Minor - Airstrips	220		18,000					
20,000	GCY9209	Minor Works & Purchases, Bus Services	897		20,000					
182,000	GCY9210	Road Reconstruction	31,667		182,000					
49,000	GCY9211	Drainage Improvements	1,900		49,000					
135,000	GCY9212	Crash Barrier Replacement	87,754		135,000					
410,000	GCY9213	20MPH Speed Limits Schools	0		410,000		RD-16-09 refers			See GCY9200
70,000	GCY6106	Haggersta A971	9,500	70,000		BRO advises this is behind schedule	RD-17-09 refers			
5,000	GCY6117	A971 W Burrallirth - Brig Walls	0	5,000	5,000		No report			
10,000	GCY6118	Germatwatt Footways	1,221	10,000	10,000		No report			
13,000	GCY6120	A970 Oversund Junction		13,000	13,000	Complete, c/f for final payment			Accrual Reversal	
350,000	GCY6121	B9081 Mid Yell Link to A968	195,204	410,000	410,000	Project extended by 100metres	Extension will shorten Phase 2			Additional 60K budget to be requested from council
35,000	GCY6122	Papa Stour Road		95,000	95,000		RD-18-09 refers		15K received from Scottish Water	Additional budget previously requested from council CPS-15-09
10,000	GCY6124	A970 Scrd-Schl	0	10,000	10,000		No report			
20,000	GCY6125	B9071 Bixter to Alth - Phase 2	0	20,000	20,000		No report			
5,000	GCY6126	Sletts Road Sea Wall, Lerwick	0	5,000	5,000		No report			
180,000	GCY6127	Murrister Depot Replacement	0	180,000	180,000		No report			
160,000	GCY6128	Bixter Bus Interchange	103,606	160,000	160,000		No report			
5,000	GCY6129	Parkhall to Sand Junction	0	5,000	5,000		No report			
10,000	GCY6130	B9082/3 Gutcher to Cullivoe	0	10,000	10,000		No report			
5,000	GCY6131	Gulberwick Road	0	5,000	5,000		No report			
8,000	GCY6132	Gremista Footways	653	8,000	8,000		No report			
8,000	GCY6133	Vidlin Shore Road Footway	0	8,000	8,000		No report			
8,000	GCY6134	Scalloway East Voe Footway	0	8,000	8,000		No report			
8,000	GCY6135	Burravoe Yell Footway	0	8,000	8,000		No report			
8,000	GCY6136	Tingwall Footways	0	8,000	8,000		No report			
2,500	GCY6202	Burra Bridge	0	2,500	2,500		No report			
2,500	GCY6204	Trondra Bridge	0	2,500	2,500		No report			
10,000	GCY6205	Laxburn Bridge	0	10,000	10,000		No report			
10,000	GCY6206	Burnbeach Seawall Scalloway	0	10,000	10,000		No report			
10,000	GCY6207	Strandloch Bridge Tingwall	0	10,000	10,000		No report			
35,000	GCY6298	Advanced Design of Schemes	0	35,000		Feasibility work on possible future projects	No report			
0	GCY6299	Completed Schemes	7,267	7,267	7,267				Compulsory purchase West Burrallirth to Parkhall	Additional budget previously requested from council CPS-15-09
250,000	GCY6401	Scord Quarry Plant Purchase	115,600	250,000	250,000	On Schedule	No report			
0	GCY6405	North Mainland Roads Office	0	50,000	50,000		Additional requirement for extension to garage			Additional 50K budget to be requested from council
2,746,000			798,829							

INFRASTRUCTURE SERVICES cont

Transport Projects

Revised budget	Code	Project	Period 5	Contractual estimate	Estimated outturn	Programme Progress	Project Review Comments	Contractors Performance	Comments	Action
500,000	GCY7202	Tingwall Airport	2,480		500,000	No report				
0	GCY7212	Bressay Link	0		40,000		TR-25-09 refers			Additional budget previously requested from council CPS-15-09
500,000	GCY7213	Whalsay Link	497		500,000		TR-25-09 refers			
300,000	GCY7214	Fetlar Breakwater	0		300,000	Design only this year				
1,251,600	GCY7254	Transport - Vehicle and Plant Replacement	490,786	1,251,600	1,251,600		No report			
0	GCY9995	Infrastructure Vehicle & Plant Sales	(35,400)							
2,551,600			458,363							

Ferry Projects

Revised budget	Code	Project	Period 5	Contractual estimate	Estimated outturn	Programme Progress	Project Review Comments	Contractors Performance	Comments	Action
162,000	GCY7601	Ferries Rolling Programme	36,164	0	162,000	No report				
0	GCY7603	New Ferry - Yell Service	121,643	0	121,643	ISD-07-09 refers			ISD-07-09 refers	Additional budget previously requested from council CPS-15-09
261,000	GCY7626	Ferry Terminal Structural Improvements	53,471		261,000	Works being undertaken at Gutcher, Vidlin and Uista				
423,000			211,278							

Port Operations

Revised budget	Code	Project	Period 5	Contractual estimate	Estimated outturn	Programme Progress	Project Review Comments	Contractors Performance	Comments	Action
7,000	RCM2309	Peerie Dock, Symbister	0		7,000	No report	08/09 c/f		Budget allocated for this in 09/10 - debt funding of Tug purchase	08/09 balance c/f agreed 16/09/09
11,152,000	RCM2313	Tugs for Sellaaness	4,647,464	13,246,794	13,246,794	No report				
104,000	RCM2314	Uyeasound Harbour Development	198,253	215,223	215,223	Complete	Site works complete - final instalment less retention due 09/10		Additional 142K HIE funding received, budgets created from this	
40,000	RCM2315	Scalloway Water Main	0		40,000					
140,000	RCM2316	Walls Pier	0		140,000		Design Works being progressed			
11,443,000			4,845,717							

CAPITAL PROGRAMME - PROGRESS REPORT PORTS & HARBOURS (HARBOUR ACCOUNT) 2008/09

Port Operations

Revised budget	Code	Project	Period 5	Contractual estimate	Estimated outturn	Programme Progress	Project Review Comments	Contractors Performance	Comments	Action
150,000	PCM2101	Plant Vehicles & Equip	65,522		150,000		Purchase of generator (80K) was delayed - expected on site April 09 c/f from 08/09 actioned - no further report	n/a		
70,000	PCM2104	Nav Aids - Sullom Voe	1,734		70,000		No report	n/a		
220,000			67,256							

Housing

Revised budget	Code	Project	Period 5	Contractual estimate	Estimated outturn	Programme Progress	Project Review Comments	Contractors Performance	Comments	Action
678,851	HCH3303	Land/Property Acq	149,669	0	678,851	Ongoing	Property purchase and conversion works	n/a	Engineers appointed to identify site-works for new build proposals	
259,266	HCH3404	Environmental Improvements	21,699	0	259,266	Ongoing	Ongoing programme		Staneyhill contract due to complete 09/10. North Toogs, Burra on site. Bayview, North Ros to be tendered	
107,103	HCH3512	Community Care Projects	4,550	0	107,103	Ongoing	Several small contracts to mainly improved disabled access.	n/a	Extra care pilot conversion of sheltered housing in Unst. South Mainland wheelchair conversion.	
25,655	HCH3525	Feasibility Studies HRA	1,356	0	25,655	Ongoing	Feasibility works in connection with structural issues.	n/a		
124,862	HCH3526	Opportunity Conversions	875	0	124,862	Ongoing	Prioritised projects being progressed	n/a	Extension to property with large family with consultants. building warrant applied for.	
157,103	HCH3706	Heating Replacement Program	267	0	157,103	Ongoing	Rolling Programme		Hamarsgarth, Mossbank 09/10	
387,758	HCH3708	External Re-Render Programme	17,879	0	387,758	Ongoing	Rolling Programme		Completion of Grindahoul, Brae. Steenbras, Aywick tendered	
0	HCH3709	Landward Crudens	446	0	446				Incorrect coding to be transferred out	
1,146,933	HCH3710	Lerwick Crudens	400,730	0	1,146,933	Ongoing	Phase 1 on site, complete 09/10		Phase 2 to be tendered 09/10	
40,000	HCH3711	Retentions/Final Accounts	0	0	40,000	Ongoing			Kitchen replacement contract agreed at Services Committee 07/05/09	
360,000	HCH3712	Housing Quality Standard	201,291	0	360,000	Ongoing	Rolling Programme			Incorrect coding to be transferred out
	HCH3713	Ladies Drive Kitchen Replace	96				Project approved by full Council 18/02/09.		Project team established, proceeding to tender	
200,000	HCH3714	Replacement MIS System	183		200,000				Estimated capital receipt from 'right to buy' sales.	
(889,886)	HCH3800	Cap Rec/Sale Council Hs	(382,997)	0	(889,886)	Ongoing				
2,597,645			416,044							

Summary of Councils Funded Capital Projects 09/10

General Fund

Service Area	Project Cost Centre	General Fund Projects	Existing Budget Allocation	CPS-18-09 Adjustments	Proposed Budget Allocation
Community Care	GCA****	Social Care Rolling Programme	868,829		868,829
Community Care	GCA0106	Care Homes Additional Beds	225,000		225,000
Community Care	GCA0231	Care Homes Fire Upgrade	342,000	(100,000)	242,000
Community Care	GCA0233	Joint Occupational Therapy Centre	150,000		150,000
Community Care	GCA0234	Taing House Capital Maintenance	76,500		76,500
Community Care	GCA0235	Viewforth Capital Maintenance	40,500		40,500
Community Care	GCA0237	Eric Gray Replacement	290,000		290,000
Childrens Services	GCG0232	Leog Replacement	400,000		400,000
Schools	GCE1315	Mid Yell JHS	4,422,000		4,422,000
Schools	GCE1500	Education Capital Maintenance	1,459,000	100,000	1,559,000
Schools	GCE1171	Little Tikes	383,000		383,000
Sport & Leisure	G CJ3001	Water Based Facilities (Marinas)	29,618		29,618
Sport & Leisure	G CJ3002	Knab Dyke	88,000		88,000
Sport & Leisure	G CJ3003	Refurbishment of Play Areas/Park Equipment	210,000		210,000
Sport & Leisure	G CJ3006	Community Organisation Grants	426,000		426,000
Sport & Leisure	G CJ3020	Islesburgh CC Capital Maintenance	36,000		36,000
Culture	GCL4402	Cinema and Music Venue	2,000,000		2,000,000
Housing	GCH3100	Housing Staff Accommodation	9,872		9,872
Housing	GCH3102	Housing Chalet Accommodation	10,958		10,958
Housing	GCH3120	Housing Temporary Accom (Homelessness)	14,423		14,423
Legal & Admin	GCB6001	Copper Pipework Replacement	135,000		135,000
Legal & Admin	GCB6002	Lystina Maintenance	346,500		346,500
Legal & Admin	GCB6004	Disability Discrimination Act Works	90,000		90,000
Legal & Admin	GCB6006	Ness of Sound Farm Byre Roof	22,000		22,000
CPS	GCK2000	Feasibility Studies	35,000		35,000
CPS	GCK2002	Contingency and Final Accounts	112,000		112,000
ICT	G CX4300	PC & LAN replacement	231,300	25,700	257,000
ICT	G CX4311	SSIS Upgrade	77,666		77,666
ICT	G CX4312	Schools ICT Equipment	234,900	26,100	261,000
ICT	G CX4315	IP Phones	120,000		120,000
ICT	G CX4319	LV/MV Photocopiers	67,500	7,500	75,000
ICT	G CX4323	Shetland Public Sector Network	267,300	29,700	297,000
ICT	G CX4329	ICT - Planning Project	150,000		150,000
Environment	GCY****	Burial Ground Rolling Programme	399,079	(76,079)	323,000
Environment	GCY5129	Energy Recovery Plant	230,000		230,000
Environment	GCY5132	Replacement Esplanade Toilets	100,000		100,000
Environment	GCY5133	Rova Head Reinstatement	60,000	14,000	74,000
Environment	GCY5137	Gremista Landfill Phase 2 (Design)	20,000		20,000
Environment	GCY5139	Wheelie Bins	126,000		126,000
Environment	GCY9016	Public Toilet Rolling Programme	2,105		2,105
Environment	GCY5505	New Mid Yell Workshop	205,000	40,000	245,000
Roads	GCY6106	A971 Haggersta to Cova	70,000		70,000
Roads	GCY6117	A971 W Burrafirth Jnct to Brig O' Waas	5,000		5,000
Roads	GCY6118	Germatwatt Footways	10,000		10,000
Roads	GCY6120	A970 Oversund Junction	13,000		13,000
Roads	GCY6121	B9081 Mid Yell (Hillend Section)	350,000	60,000	410,000
Roads	GCY6122	Papa Stour Road	95,000		95,000
Roads	GCY6124	Scord to School	10,000		10,000
Roads	GCY6125	B9071 Bixter to Aith Phase 2	20,000		20,000
Roads	GCY6126	Sletts Road Sea Wall	5,000		5,000
Roads	GCY6127	Murrister Depot Replacement	180,000		180,000
Roads	GCY6128	Bixter Bus Interchange	160,000		160,000
Roads	GCY6129	B9071 Parkhall to Sand Junction	5,000		5,000
Roads	GCY6130	B9082/3 Guther to Cullivoe	10,000		10,000
Roads	GCY6131	Gulberwick Road	5,000		5,000
Roads	GCY6132	Gremista Footways	8,000		8,000
Roads	GCY6133	Vidlin Shore Road Footway	8,000		8,000
Roads	GCY6134	Scalloway East Voe Footway	8,000		8,000
Roads	GCY6135	Burravoe, Yell Footway	8,000		8,000
Roads	GCY6136	Tingwall Footways	8,000		8,000
Roads	GCY6202	Burra Bridge	2,500		2,500
Roads	GCY6204	Trondra Bridge	2,500		2,500
Roads	GCY6205	Laxaburn Bridge	10,000		10,000
Roads	GCY6206	Burnbeach Seawall, Scalloway	10,000		10,000
Roads	GCY6207	Strand Loch Bridge, Tingwall	10,000		10,000
Roads	GCY6298	Advanced Design of Schemes	35,000		35,000
Roads	GCY6299	Completed Schemes	7,267		7,267
Roads	GCY6401	Scord Quarry Fixed Plant Replacement	250,000		250,000
Roads	GCY6405	North Mainland Roads Office	0	50,000	50,000
Roads	GCY9200	Roads Rolling Minor Works	35,000		35,000
Roads	GCY9201	Roads Rolling Development Related Roads	74,000		74,000
Roads	GCY9202	Roads Rolling Bridge Replacements	191,000		191,000
Roads	GCY9203	Roads Rolling Footways & Streetlighting	100,000		100,000
Roads	GCY9204	Roads Rolling Streetlighting Replacement	168,000		168,000
Roads	GCY9206	Roads Rolling Traffic Management	36,000		36,000
Roads	GCY9207	Roads Rolling Accident Investigation & Prevention	90,000		90,000
Roads	GCY9208	Roads Rolling Air Service	18,000		18,000

10K next

Service Area	Project Cost Centre	General Fund Projects cont...	Existing Budget Allocation	CPS-18-09 Adjustments	Proposed Budget Allocation
Roads	GCY9209	Roads Rolling Works/Purchases Bus Services	20,000		20,000
Roads	GCY9210	Roads Rolling Road Reconstruction	182,000		182,000
Roads	GCY9211	Roads Rolling Roads Drainage Improvements	49,000		49,000
Roads	GCY9212	Roads Rolling Crash Barrier Replacement	135,000		135,000
Roads	GCY9213	Roads Rolling 20mph Speed Limits	410,000		410,000
Transport	GCY7202	Tingwall Airport (H&SE Works)	500,000		500,000
Transport	GCY7212	Bressay Link	40,000		40,000
Transport	GCY7213	Whalsay Link	500,000		500,000
Transport	GCY7214	Fetlar Breakwater	300,000		300,000
Transport	GCY7254	Vehicle & Plant Replacement Programme	1,251,600		1,251,600
Transport	GCY7601	Ferries Capital Rolling Programme	162,000		162,000
Transport	GCY7603	Yell Ferries	121,643		121,643
Transport	GCY7626	Urgent Repairs to Ferry Terminals	261,000		261,000
Sub Total			20,462,560	176,921	20,639,481
Service Area	Project Cost Centre	Port Operations Capital Funding (Non Sullom Voe Harbour)	Existing Budget Allocation	CPS-18-09 Adjustments	Proposed Budget Allocation
Port Operations	RCM2309	Peerie Dock, Symbister	7,000		7,000
Port Operations	RCM2314	Uyeasound Pier	215,223		215,223
Port Operations	RCM2315	Salloway Water Main	40,000		40,000
Port Operations	RCM2316	Walls Pier	140,000		140,000
Sub Total			402,223	0	402,223
General Fund Total			20,864,783	176,921	21,041,704

Externally Funded Projects

Service Area	Project Cost Centre	Capital Budgets created through Revenue Savings / External Grant Funding	Existing Budget Allocation	CPS-18-09 Adjustments	Proposed Budget Allocation
Community Care	GCA0236	Montfield Care Home	2,050,030		2,050,030
CPS	GCK2001	CCTV	163,766	(50,000)	113,766
Development	GCD1570	Wind Farm Development	34,788		34,788
Finance	GCF1302	Electronic Payments System	44,035		44,035
Externally Funded Total			2,292,619	(£50,000)	2,242,619

Harbour Account

Service Area	Project Cost Centre	Funded directly from Harbour Account	Existing Budget Allocation	CPS-18-09 Adjustments	Proposed Budget Allocation
Ports & Harbours	PCM2101	Ports & Harbours Plant & Equipment	150,000		150,000
Ports & Harbours	PCM2104	Ports & Harbours Nav Aids	70,000		70,000
Sub Total			220,000	0	220,000
Service Area	Project Cost Centre	Funded through debt charges from the Harbour Account	Existing Budget Allocation	CPS-18-09 Adjustments	Proposed Budget Allocation
Ports & Harbours	RCM2313	Sellaness Tugs	13,246,794		13,246,794
Sub Total			13,246,794	0	13,246,794
Harbour Account Total			13,466,794	0	13,466,794

Service Area	Project Cost Centre	Capital Expenditure not funded by the Capital Programme to be met by financial arrangement.	Existing Budget Allocation	CPS-18-09 Adjustments	Proposed Budget Allocation
Schools	GCE1304	AHS New Build	15,000,000		15,000,000
AHS Financing Arrangement Total			15,000,000	0	15,000,000

Housing Revenue Account

Service Area	Project Cost Centre	Ring Fenced Housing Expenditure	Existing Budget Allocation	CPS-18-09 Adjustments	Proposed Budget Allocation
HRA	HCH3303	Land/Property Acquisition	678,851		678,851
HRA	HCH3404	Environmental Improvements	259,266		259,266
HRA	HCH3512	Community Care Projects	107,103		107,103
HRA	HCH3525	Feasibility Studies HRA	25,655		25,655
HRA	HCH3526	Opportunity Conversion	124,862		124,862
HRA	HCH3706	Heating Replacement Programme	157,103		157,103
HRA	HCH3708	External Re-Render Programme	387,758		387,758
HRA	HCH3710	Lerwick Crudens	1,146,933		1,146,933
HRA	HCH3711	Retentions/Final Account	40,000		40,000
HRA	HCH3712	Housing Quality Standard	360,000		360,000
HRA	HCH3714	Replacement MIS System	200,000		200,000
HRA	HCH3800	Cap Rec/Sale Council Houses	(889,886)		(889,886)
HRA Total			2,597,645	0	2,597,645
Total Overall Capital Budget			54,221,841	126,921	54,348,762



REPORT

To: Shetland Islands Council

28 October 2009

From: Chief Executive

Report No: CE-46-F

Capital Programme – Approval of Projects in Year 1 and Way Forward

1. Introduction

- 1.1 This Report invites Members to consider and approve Year 1 of the proposed 5 Year Capital Programme, as an interim measure towards developing a 5 year programme. Further, Members are invited to consider proposals from the Finance Review Working Group on developing a framework for considering future years projects to ensure that the projects put forward have been thoroughly evaluated.

2. Links to Corporate Priorities

- 2.1 This Report contributes to delivering a number of named projects within the Corporate Plan, as well as assisting with the efficient operation of the Council's business. Fundamentally, the Report puts in place a programme and proposals for a system to ensure that the council can meet its overall financial objective of maintaining reserves at £250m.

3. Background

- 3.1 The Finance Review Group was established to draw up a 5 year capital programme. This work programme acknowledged that the bids for capital investments were significantly higher than available funding, to maintain reserves at £250m. The overall aspirations total about £220m, with available funding at £100m over the 5 year period.
- 3.2 Drawing on the priorities which each of the main Committees put forward, the Finance Review Group were tasked with drawing together the overall priorities of the Council.
- 3.3 The Council's managers put together an indicative programme for the Members of the Finance Review Group to consider. This took account of the need to maintain current assets and the need to maintain current service levels. In some instances, the capital projects support identified gaps in service delivery. The summary of the proposed 5 Year Programme,

is included at Appendix 1. The proposals were slightly less than £100m in total, so achieved the overall policy decisions of the Council.

- 3.4 The Finance Review Group then considered the projects put forward by the managers, at meetings held on 7 and 9 October 2009, under the chairmanship of the Vice Convener. Instead of approving the 5 Year Programme presented by the Leadership Team, Members put forward an interim solution, to only present for approval at this stage projects for year 1. Members did however accept the projects put forward by the Leadership Team, in the order of priority presented. In addition, three further projects were put forward to the recommendations to proceed in Year 1 (namely, Scalloway Dredging, Skerries South Harbour Dredging and the Fetlar Breakwater).
- 3.5 Members of the Finance Review Group were presented with an outline framework to ensure the robustness of capital projects. This was referred to as a “gateway” process, and draws on national best practice guidance. It is also complementary to the Council’s existing Capital Procurement guidance. Adopting this “gateway” approach would address the issues under consideration by the Audit and Scrutiny Committee, for effective project management.
- 3.6 The Finance Review Group would wish to explore the ideas for a “gateway” method, at a practical level, before presenting it for approval through the Council. With this in mind, the Finance Review Group is minded to only address Year 1 projects of the 5 Year Programme at the moment, while the method is tested for practical application. Thereafter, the Finance Review Group will assess the remaining projects in future years and make recommendations to the Council on Years 2 – 5 of the programme.
- 3.7 Approval of Year 1 at this time will ensure that projects are not subject to any delay in planning activity for next financial year.

4. Proposals

4.1 General Principles

The Finance Review Group propose the following principles be adopted:

- that a 5 year capital programme be set, by the spring of 2010;
- that funding over the 5 year capital programme be set at £100m, but that there be no limit to the level of expenditure in each of those 5 years;
- that a “gateway” method be developed over the next 6 months;
- that initially, Year 1 only of the General Fund Capital Programme is approved;
- that further to the “gateway” approach being developed, Years 2-5 will be agreed by the spring of 2010.

An outline of the “gateway” process is included for information at Appendix 2. It is built around the seven stages of a project, namely:

- Stage 1 – Identify Service Need
- Stage 2 – Building the Full Service Need Case
- Stage 3 – Confirm Place and Priority in the Programme
- Stage 4 – Allocate Resources and Finalise Documentation
- Stage 5 – Initiate Tender
- Stage 6 – Review Project Progress
- Stage 7 – Post Project Evaluation

As mentioned, the Finance Working Group would wish to test the application of this type of approach, at a practical project level.

It is recognised that a review of the existing management arrangements will be required to put in place dedicated resources to implement the new method and support the Finance Review Group in their work. This will be the subject of a separate Report.

4.2 General / Reserve Fund Capital Programme

The overall programme recommended for approval for the General Fund / Reserve Fund is shown in detail in Appendix 3 (Year 1 only estimates). In some cases, the expenditure proposed for next financial year will be for design costs only

Appendix 4 contains details of the Rolling Programmes, again Year 1 only is shown. It is the intention of the Finance Review Group that the Rolling Programmes should be subject to review through the developing “gateway” process. The Rolling Programmes focus on essential maintenance required to maintain existing assets.

In summary, the financial position can be outlined as follows:

	£m
Total Available Funding	100.00
<u>Less:</u> Projects Already Committed	(5.7)
Net Available Funding	94.3
Proposed Programme:	
Rolling Programmes	10.0
Projects Recommended for Year 1	15.6
Total Proposed Programme	25.6
Total Available for Future Years	68.7

As mentioned, in some cases the Year 1 may only refer to design costs. Were Members minded to proceed with these projects, as prioritised, the total spend commitment would be in the order of £37.4m. If Rolling Programmes continue at the current level of spend (c £9m per annum and c £41m over the 5 year period), this would suggest an overall expenditure level of c £110m over the 5 Year period.

Appendix 5 details the projects which are not considered to be an immediate priority, some of which may be considered for funding in later years.

The Anderson High School project is excluded from this analysis as a separate funding arrangement has been agreed for that project.

4.3 Housing Revenue Account

Appendix 6 shows the proposals for expenditure on the Housing Revenue Account, in financial detail. The proposed programme will be developed through Services Committee and more detailed projects and programmes reported to the next cycle of meetings.

4.4 Harbour Account

Appendix 7 is the detail of the Harbour Accounts proposed 5 Year Programme, for approval.

5. Financial Implications

5.1 The General Fund / Reserve Fund Capital Programme budget is set at £100m over a 5 year period. Adopting Year 1 only enables the capital programme to be within budget. However, it should be noted that if the rolling programmes continue at the current level and that Members wish to proceed with the projects approved in year 1 to completion, that would result in an estimated spend over the 5 year period of £110m. More work will therefore be required to bring the programme back into line with the financial policy commitment.

5.2 Approval of Appendix 6 (Housing Revenue Account) will set the framework for capital investment going forward. The final decision on the actual level of capital investment able to be afforded next year will be determined through the Revenue Estimates, when the rent levels are set.

5.3 Approval of Appendix 7 (Harbour Account) will set the capital budget for the Harbour Account, to feed into consideration of charges through the approval of the Revenue Estimates in the New Year.

6. Policy and Delegated Authority

6.1 Section 8.0 of the Council's Scheme of Delegations state that there is no delegation of matters relating to the final approval of the Capital Programme so a decision of the Council is required.

7. Recommendations

7.1 I recommend that the Council:

- (a) agree the general principles established by the Finance Review Group for the capital programme, set out at paragraph 4, specifically to agree in principle to a 5 year programme, that the funding level should be set at £100m and that a formal project management system should be established; and
- (b) note the progress made in developing a “gateway” approach to assessing capital projects and invite the Finance Review Group to continue their work to determine if this approach would work at a practical level; and
- (c) approve the General Fund / Reserve Fund Capital projects for Year 1 2010/11 only, set out at Appendix 3, as an interim measure while work continues to develop a 5 year programme; and
- (d) approve the General Fund Rolling Programmes, totalling £10.0m in 2010/11, detailed at Appendix 4; and
- (e) approve the outline Housing Revenue Account capital funding proposals for 5 years, set out at Appendix 6, and note that the final determination of spend for next year will be determined through the rent setting process in the new year; and
- (f) approve the Harbour Account capital estimates for 5 years, set out at Appendix 7.
- (g) note that further reports will be presented from the Finance Review Group, to determine the method for assessing capital projects and make recommendations on years 2 -5 by the spring of 2010.

Our Ref: HAS/DAC/IS

Report No: CE-46-F

**Shetland Islands Council
Gateway Overview**

PRINCIPLE 1 SPECIFY

STAGE 1 IDENTIFY SERVICE NEED (STRATEGIC CASE)

- Why is it needed?
- What are the service outputs?
- Does it meet strategic objectives?
- Consultation

STAGE 2 BUILDING THE FULL SERVICE NEED CASE

- Minimum requirements
- Quantities
- Locations
- Time constraints
- Option Appraisal and Costs
- Life Cycle Costs
- Feasibility Study
- Does it meet Strategic Case

PRINCIPLE 2 PLAN

STAGE 3 CONFIRM PLACE AND PRIORITY IN PROGRAMME

- Identify lead time, (Land Acquisition, Early Contractor Involvement)
- How does it match with existing capital commitments and constraints?
- Strength of Service Need Case to inform prioritisation

STAGE 4 ALLOCATE RESOURCES AND FINALISE DOCUMENTATION

- Appoint project/design team
- Appoint internal/external support
- Acquire formal approvals
- Acquire land
- Risk Management
- Finalise timeframe and costs
- Procurement Method
- Finalise contract documentation

PRINCIPLE 3. EXECUTE (PROCURE & MONITOR PROJECT)

STAGE 5 INITIATE TENDER

- Tender evaluation
- Project engineering
- Review Life Cycle Costs
- Is it within budget and on original timescale?
- Does it still meet Service Need Case?

STAGE 6 REVIEW PROJECT PROGRESS

- Monitor Progress
- Monitor Spend
- Monitor Quality
- Monitor Risk
- Monitor Health & Safety
- Ensure all parties work together
- Is project still on time?
- Is project still on budget?
- Does project meet quality standards?
- Review, Revise, Record & Report
- Does project still meet with Service Need Case?
- Do variations to contract need to be approved and at what level?

PRINCIPLE 4 CLOSURE

STAGE 7 POST PROJECT EVALUATION

- Was project delivered on time?
- Was project delivered on Budget?
- Seek client and customer feedback
- Does project meet with Service Need Case?
- Was the procurement method appropriate?
- Was the process appropriate?

Principle	Stage	Description	GATEWAY DECISION PROCESS		Gateway Decision	Comment
			Capital Scrutiny Panel	Committee Decision		
SPECIFY	1.	Strategic Service Case (Identify Service Need)	Does it meet Service Need Criteria	Approve/Reject recommendation from CSP	Proceed Y/N	The 1st gateway will determine if there is a service need based on a strategic case. May need to approve budget to develop Stage 2
	2.	Develop Full Service Need Case	Does it meet Service Need Criteria	Approve/Reject recommendation from CSP	Proceed Y/N	The 2nd gateway will determine if there is a robust service case to approve project
PLAN	3.	Prioritisation Of Project	Recommendation to Committee on phasing of project based on final service need case.	Approve/Reject Budget Prioritisation	When	If it gets to Stage 3 then the decision is when.
	4.	Allocate Resources & Finalise Documentation				This is not a gateway process. Internal project management.
EXECUTE	5.	Initiate and review tender	Does it still meet Strategic and final service need case? Is it still within budget? Has tender submissions been reviewed and reassessed?	Final approval or reassessment of Project	Proceed Y/N	This is the final gateway to proceed with project
	6.	Review Project Progress	Is project on time and on budget, Does it still meet Final Service Need Case.	Approve/Reject recommendation from CSP	Assess progress and approve/reject variations	Review, monitor and evaluate progress. Agree variations to project if appropriate.
CLOSURE	7.	Post Project Evaluation	Review project completion against Full Service Need Case. Review project against process.	Approve/Reject recommendation from CSP	Revise process as appropriate.	Project completion document to be submitted for review.

Summary of Bids for Years 1-5

	Year 1	Year 2	Year 3	Year 4	Year 5	Total
	Provisional	Provisional	Provisional	Provisional	Provisional	
	10/11	11/12	12/13	13/14	14/15	Yrs. 1-5
Total Funding Available	20,000,000	20,000,000	20,000,000	20,000,000	20,000,000	100,000,000
General Fund & Reserve						
Committed	5,820,382	960,724	112,000	112,000	112,000	7,117,106
Rolling Programmes	8,913,177	8,335,093	8,763,925	7,727,579	7,265,538	41,005,312
Sub Total	14,733,559	9,295,817	8,875,925	7,839,579	7,377,538	48,122,418
Balance available for new projects	5,266,441	10,704,183	11,124,075	12,160,421	12,622,462	51,877,582
New Projects Bids	14,399,000	19,824,000	12,465,000	2,805,000	150,000	49,643,000
Total General & Reserve Fund Bids	29,132,559	29,119,817	21,340,925	10,644,579	7,527,538	97,765,418
Variance General / Reserve Fund	(9,132,559)	(9,119,817)	(1,340,925)	9,355,421	12,472,462	2,234,582

Other A/Cs (Ring Fenced)						
Harbour A/C	501,500	340,000	140,000	140,000	140,000	1,261,500
AHS Financing Arrangement	15,000,000	14,500,000	0	0	0	29,500,000
Housing (HRA)	2,597,645	2,597,645	2,597,645	2,597,645	2,597,645	12,988,225
Sub Total	18,099,145	17,437,645	2,737,645	2,737,645	2,737,645	43,749,725

Total All Funds	47,231,704	46,557,462	24,078,570	13,382,224	10,265,183	141,515,143
					Years 6-10	27,498,600
					Future Years	86,769,000
						<u>255,782,743</u>

5 Year Capital Programme - Proposed Budgets as at 16-09-09

Appendix 1

Ongoing Committed projects

Project	Year 1	Year 2	Year 3	Year 4	Year 5	Total
General Fund	Provisional	Provisional	Provisional	Provisional	Provisional	
Note: Base prices 2008/2009	10/11	11/12	12/13	13/14	14/15	Yrs. 1-5
Ness Of Sound Farm	12,000	12,000	12,000	12,000	12,000	60,000
Final A/Cs Contingency	100,000	100,000	100,000	100,000	100,000	500,000
Water Based Facilities (Marinas)	382	0	0	0	0	382
Energy Recovery Plant	292,000	420,000	0	0	0	712,000
Replacement Esplanade Toilets	18,000	0	0	0	0	18,000
Rova Head Reinstatement	140,000	0	0	0	0	140,000
Cinema and Music Venue (ongoing)	1,500,000	278,724	0	0	0	1,778,724
B9081 Mid Yell (Hillend Section)	10,000	0	0	0	0	10,000
Mid Yell JHS (ongoing)	3,350,000	150,000	0	0	0	3,500,000
Care Homes Fire Upgrade	148,000	0	0	0	0	148,000
Sub Total	5,570,382	960,724	112,000	112,000	112,000	6,867,106

Reserve Fund						
Water Main, Scalloway	250,000	0	0	0		250,000
Sub Total	250,000	0	0	0	0	250,000

Total Committed Projects

5,820,382	960,724	112,000	112,000	112,000	7,117,106
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Rolling Programmes - Future Years Bids

Project	Year 1	Year 2	Year 3	Year 4	Year 5	Total
General Fund	Provisional	Provisional	Provisional	Provisional	Provisional	
Note: Base prices 2008/2009	10/11	11/12	12/13	13/14	14/15	Yrs. 1-5
Copper Pipework Replacement	150,000	150,000	150,000	150,000	150,000	750,000
Disability Discrimination Act Works	100,000	100,000	100,000	100,000	100,000	500,000
Feasibility Studies	400,000	400,000	400,000	400,000	400,000	2,000,000
Burial Ground Rolling Programme	<i>see below</i>	<i>see below</i>	<i>see below</i>	<i>see below</i>	<i>see below</i>	0
<i>Fetlar Burial Ground</i>	9,375	0	0	<i>not known</i>	<i>not known</i>	9,375
<i>Bixter Burial Ground</i>	374,500	56,608	10,625	<i>not known</i>	<i>not known</i>	441,733

5 Year Capital Programme - Proposed Budgets as at 16-09-09

Appendix 1

Rolling Programmes - Future Years Bids cont....

Project	Year 1	Year 2	Year 3	Year 4	Year 5	Total
General Fund	Provisional	Provisional	Provisional	Provisional	Provisional	
Note: Base prices 2008/2009	10/11	11/12	12/13	13/14	14/15	Yrs. 1-5
Voe Burial Ground	10,000	359,500	45,785	not known	not known	415,285
Muckle Roe Burial Ground	0	15,000	481,814	not known	not known	496,814
Skerries Burial Ground	0	0	5,000	not known	not known	5,000
Wheelie Bins	59,500	44,500	37,000	37,000	37,000	215,000
Public Toilets Essential Maintenance	60,000	60,000	60,000	60,000	60,000	300,000
Housing Staff Accommodation	10,969	10,969	10,969	10,969	10,969	54,845
Housing Chalet Accommodation	12,175	12,175	12,175	12,175	12,175	60,875
Housing Temporary Accom (Homelessness)	16,025	16,025	16,025	16,025	16,025	80,125
PC & LAN Replacement	278,000	203,000	257,000	202,000	202,000	1,142,000
Schools ICT Equipment	395,000	395,000	395,000	395,000	395,000	1,975,000
Photocopier Replacement	75,000	75,000	75,000	75,000	75,000	375,000
Shetland Public Sector Network	251,000	238,000	250,000	256,000	256,000	1,251,000
Roads Rolling Programme	see below	see below	see below	see below	see below	0
Advanced Design of Schemes	170,000	150,000	130,000	100,000	100,000	650,000
Scord Quarry Fixed Plant Replace	250,000	250,000	250,000	250,000	250,000	1,250,000
General Minor Road Improvements & Purchases	100,000	100,000	100,000	100,000	100,000	500,000
Development-Related Road Improvements	60,000	100,000	200,000	200,000	200,000	760,000
Roads Rolling Bridge Replacements	350,000	350,000	350,000	350,000	350,000	1,750,000
Footways Improvements	100,000	100,000	100,000	100,000	100,000	500,000
Roads Rolling Streetlighting Replacement	200,000	200,000	200,000	200,000	200,000	1,000,000
Traffic Management Road Improvements	50,000	100,000	110,000	140,000	140,000	540,000
Roads Rolling Accident Investigation & Prevention	100,000	100,000	100,000	100,000	100,000	500,000
Roads Rolling Air Service	20,000	20,000	20,000	20,000	20,000	100,000
Bus Service Infrastructure Development	40,000	40,000	60,000	60,000	60,000	260,000
Roads Rolling Road Reconstruction	300,000	500,000	500,000	300,000	300,000	1,900,000
Roads Rolling Roads Drainage Improvements	80,000	80,000	80,000	80,000	80,000	400,000
Roads Rolling Crash Barrier Replacement	150,000	150,000	150,000	150,000	150,000	750,000
Education Capital Estate Maintenance No 2	see below	see below	see below	see below	see below	0
Aith Maintenance	0	83,000	350,000	0	not known	433,000
AHS Maintenance	300,000	20,000	10,000	10,000	not known	340,000
Baltasound Maintenance	100,000	165,000	0	0	not known	265,000

5 Year Capital Programme - Proposed Budgets as at 16-09-09

Appendix 1

Rolling Programmes - Future Years Bids cont....

Project	Year 1	Year 2	Year 3	Year 4	Year 5	Total
General Fund	Provisional	Provisional	Provisional	Provisional	Provisional	
Note: Base prices 2008/2009	10/11	11/12	12/13	13/14	14/15	Yrs. 1-5
Bells Brae Maintennace	100,000	60,000	0	0	not known	160,000
Brae JHS Maintennace	0	0	0	165,000	not known	165,000
Burravoe Maintenance	0	100,000	0	0	not known	100,000
Dunrossness Maintenance	170,000	0	0	30,000	not known	200,000
Hamnavoe Maintenance	200,000	0	0	0	not known	200,000
Happyhansel Maintenance	130,000	182,000	120,000	0	not known	432,000
Lunnasting Maintenance	0	0	50,000	0	not known	50,000
Sandwick Maintenance	53,000	120,000	90,000	140,000	not known	403,000
Sound Maintenance	170,000	20,000	100,000	0	not known	290,000
Whalsay JHS Maintenance	10,000	0	0	150,000	not known	160,000
Urafirth Maintenance	0	0	50,000	0	not known	50,000
Whiteness Maintenance	60,000	0	0	50,000	not known	110,000
Janet Courtney Maintenance	195,000	0	0	0	not known	195,000
Old Bruce Hostel Maintenance	10,000	0	75,000	0	not known	85,000
New Bruce Hostel Maintenance	70,000	0	0	0	not known	70,000
ASN Gressay Loan Maintenance	15,000	0	0	0	not known	15,000
Social Care Rolling Programme	see below	see below	see below	see below	see below	
SC RP Inspection Health & Safety - No 5	26,465	27,789	29,178	30,637	31,403	145,472
SC RP Building Fabric - No 5	41,850	43,942	46,139	48,448	49,659	230,038
SC RP Electrical Sys Upgrade - No 5	38,542	40,469	42,493	44,618	45,733	211,855
SC RP Mechanical Sys Upgrade - No 5	16,492	17,317	18,183	19,092	19,569	90,653
SC RP Plant Equip Replacements - No 5	2,160	2,268	2,381	2,500	2,563	11,872
SC RP Safety Surfaces - No 5	22,055	23,158	24,316	25,532	26,170	121,231
SC RP Special Studies - No 5	2,129	2,236	2,348	2,465	2,527	11,705
SC RP Special Aids Stock Items - No 5	94,685	99,419	104,390	109,609	112,349	520,452
SC RP Specialist Aids - No 5	277,433	291,305	305,870	321,163	329,192	1,524,963
SC RP Minor Adaptions - No 5	46,703	49,038	51,490	54,065	55,417	256,713
SC RP Major Adaptions - No 5	228,892	240,336	252,353	264,971	271,595	1,258,147
SC RP Housing Renovations - No 5	145,831	153,123	160,779	168,818	173,038	801,589
SC RP Professional Fees - No 5	24,528	25,754	27,042	28,394	29,104	134,822
SC RP Specialist Aids Reurbishment - No 5	45,868	48,162	50,570	53,098	54,425	252,123

5 Year Capital Programme - Proposed Budgets as at 16-09-09

Appendix 1

Rolling Programmes - Future Years Bids cont....

Project	Year 1	Year 2	Year 3	Year 4	Year 5	Total
General Fund	Provisional	Provisional	Provisional	Provisional	Provisional	
Note: Base prices 2008/2009	10/11	11/12	12/13	13/14	14/15	Yrs. 1-5
Refurbishment of Play Areas & Park Equip - No 3	175,000	175,000	175,000	175,000	179,375	879,375
Community Organisation Grants No 4	300,000	300,000	300,000	300,000	307,500	1,507,500
Vehicle & Plant Replacement Programme	1,200,000	1,200,000	1,200,000	1,200,000	1,230,000	6,030,000
Ferries Capital Rolling Programme	180,000	180,000	180,000	180,000	184,500	904,500
Urgent Repairs to Ferry Terminals	290,000	290,000	290,000	290,000	297,250	1,457,250
Rolling Programmes Total	8,913,177	8,335,093	8,763,925	7,727,579	7,265,538	41,005,312

Bids for New / Future projects

Project	Year 1	Year 2	Year 3	Year 4	Year 5	Total
General Fund	Provisional	Provisional	Provisional	Provisional	Provisional	
Note: Base prices 2008/2009	10/11	11/12	12/13	13/14	14/15	Yrs. 1-5
4 Market Street - maintenance	0	0	0	125,000	0	125,000
6 Hillhead (Family History Group) - maintenance	0	20,000	0	0	0	20,000
Old Library Centre - maintenance	85,000	0	0	0	0	85,000
Train Shetland - maintenance	100,000	0	0	0	0	100,000
Old Craigielea - maintenance	0	0	0	0	0	0
Recladding Gremista Workshop	564,000	69,000	0	0	0	633,000
Weathersta - Depot Buildings - maintenance	10,000	0	0	0	0	10,000
Gremista Landfill Phase 2 (Design)	2,600,000	110,000	0	0	0	2,710,000
Germatwatt Footway (Phase 1)	650,000	0	0	0	0	650,000
Papa Stour Road	15,000	0	0	0	0	15,000
A970 Scord to School	20,000	0	0	0	0	20,000
B9071 Bixter to Aith Phase 2	150,000	1,700,000	100,000	0	0	1,950,000
Breiwick Road Sea Wall	250,000	0	0	0	0	250,000
B9071 Parkhall to Sand Junction (Design only)	20,000	20,000	5,000	0	0	45,000
B9082/3 Gutcher to Cullivoe	50,000	150,000	100,000	0	0	300,000
Gulberwick Road (Design only)	15,000	15,000	0	0	0	30,000
Footways Rolling Programme	150,000	150,000	150,000	150,000	150,000	750,000
Laxaburn Bridge Replacement	0	250,000	0	0	0	250,000
Strand Loch Bridge, Tingwall - Cost Unknown	0	0	0	0		0
Joint OT Resource Centre - No 8	2,600,000	0	0	0	0	2,600,000

5 Year Capital Programme - Proposed Budgets as at 16-09-09

Appendix 1

Bids for New / Future projects cont.....

Project	Year 1	Year 2	Year 3	Year 4	Year 5	Total
General Fund	Provisional	Provisional	Provisional	Provisional	Provisional	
Note: Base prices 2008/2009	10/11	11/12	12/13	13/14	14/15	Yrs. 1-5
Eric Gray Replacement - No 11	500,000	2,500,000	2,000,000	320,000	0	5,320,000
Laburnum No 16 - New Build	200,000	1,300,000	300,000	50,000	0	1,850,000
Laburnum No 16 - Refurbishment/Extension	100,000	540,000	10,000	0	0	650,000
Viewforth Replacement - No 17	400,000	2,500,000	1,500,000	400,000	0	4,800,000
Isleshavn Replacement - No 18	500,000	2,500,000	2,000,000	160,000	0	5,160,000
Laburnum - maintenance	20,000	0	0	0	0	20,000
Whalsay Link	4,000,000	6,000,000	6,000,000	1,500,000	0	17,500,000
Sub Total	12,999,000	17,824,000	12,165,000	2,705,000	150,000	45,843,000
Reserve Fund						
Fish Market Roof, Scalloway	0	0	150,000	0		150,000
Old Breakwater, Symbister	0	0	150,000	0		150,000
Skerries Pier	0	0	0	100,000		100,000
Walls Pier	1,400,000	2,000,000	0	0		3,400,000
Sub Total	1,400,000	2,000,000	300,000	100,000	0	3,800,000
Total New / Future Bids	14,399,000	19,824,000	12,465,000	2,805,000	150,000	49,643,000

Other Accounts (Ring Fenced Expenditure)

Harbour Account	Committed & Future Projections					
Project	Year 1	Year 2	Year 3	Year 4	Year 5	Total
	Provisional	Provisional	Provisional	Provisional	Provisional	Provisional
Note: Base prices 2008/2009	10/11	11/12	12/13	13/14	14/15	Yrs. 1-5
Tugs for Sellaness	361,500	0	0	0	0	361,500
Sub Total	361,500	0	0	0	0	361,500
Plant, Vehicles & Equipment	70,000	70,000	70,000	70,000	70,000	350,000
Navigational Aids - SV	70,000	70,000	70,000	70,000	70,000	350,000
Sub Total	140,000	140,000	140,000	140,000	140,000	700,000
Tug Jetty CP System	0	200,000	0	0	0	200,000
Sub Total	0	200,000	0	0	0	200,000
Total	501,500	340,000	140,000	140,000	140,000	1,261,500

5 Year Capital Programme - Proposed Budgets as at 16-09-09

Appendix 1

Other Accounts (Ring Fenced Expenditure) cont...

AHS Financing Arrangement	Committed & Future Projections				
AHS New Build	15,000,000	14,500,000			29,500,000

Housing Revenue Account	Committed & Future Projections				
Land & Property Acquisition	678,851	678,851	678,851	678,851	3,394,255
Enviromental Improvements	259,266	259,266	259,266	259,266	1,296,330
Community Care Projects	107,103	107,103	107,103	107,103	535,515
Feasibility Studies	25,655	25,655	25,655	25,655	128,275
Opportunity Conversion	124,862	124,862	124,862	124,862	624,310
Heating Replacement Programme	157,103	157,103	157,103	157,103	785,515
Re-harling Programme	387,758	387,758	387,758	387,758	1,938,790
Lerwick Crudens	1,146,933	1,146,933	1,146,933	1,146,933	5,734,665
Retentions/Final Accounts	40,000	40,000	40,000	40,000	200,000
Housing Quality Standard	560,000	560,000	560,000	560,000	2,800,000
Replacement MIS system	0	0	0	0	0
Capital Rec-Sale Council Houses	(889,886)	(889,886)	(889,886)	(889,886)	(4,449,430)
	2,597,645	2,597,645	2,597,645	2,597,645	12,988,225

Total	18,099,145	17,437,645	2,737,645	2,737,645	2,737,645	43,749,725
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Bids for New / Future projects - Desirable Prioritisation

Project	Total
Note: Base prices 2008/2009	Yrs. 6-10
Energy Recovery Plant wind Turbine	1,500,000
Shetland College Extension (No 12)	4,522,000
B9071 Parkhall to Sand Junction	500,000
Burra Bridge	100,000
Trondra Bridge	100,000
Burn Beach Sea Wall, Scalloway	250,000
Walls Drainage Improvement	250,000
Gremista Roads Store Replacement	200,000
B9071 Laxo to Vidlin	50,000

Bids for New / Future projects - Desirable Prioritisation

Project	Total
Note: Base prices 2008/2009	Yrs. 6-10
B9122 Bigton Loop Road	150,000
A970 Hillswick Junction to Urafirih	50,000
SC RP Care Homes Additional Beds (No 9)	11,975,000
Sandwick JHS Additional Classrooms (No 20)	451,600
Happyhansel PS Additional Classrooms (No 21)	300,000
Fernlea (Whalsay) SCT	60,000
Freefield Centre	40,000
Sella Ness Pier	7,000,000
Total Years 6-10	27,498,600

5 Year Capital Programme - Proposed Budgets as at 16-09-09

Appendix 1

Bids for New Projects - Future Years

Project	Total
Note: Base prices 2008/2009	Future
11 Hill Lane - maintenance	30,000
2-4 Bank Lane - maintenance	20,000
Quendale House - maintenance	100,000
Town Hall Further Planned Improvements	352,000
Rural Toilets Spiggie	100,000
Rural Toilets Sands of Sound	100,000
Energy Recovery Plant Water Jacket	420,000
Burial Grounds Software Package	50,000
Lerwick Library Redevelopment (No 15)	2,477,000
A971 Haggersta to Cova	2,100,000
A971 W Burrafirth Junction to Brig o' Walls	3,150,000
Papa Stour Road - Cost Unknown	0
Gulberwick Road - Cost Unknown	0
Strand Loch Bridge, Tingwall - Cost Unknown	0
Roads Testing Laboratory move from Hayfield	100,000
Lerwick Primary Provision (No 14) - Cost Unknown	0

Project	Total
Note: Base prices 2008/2009	Future
Halls of Residence (No 23) - Cost Unknown	0
Scalloway JHS Science Block (No 24)	300,000
Family Centre (No 19) - Cost Unknown	0
Leog - maintenance	70,000
Water Based Facilities (Marinas) (No 4)	2,000,000
Indoor Childrens Activity Centre (No 22)	850,000
Offices for Transport Service	550,000
Whalsay Ferry	8,000,000
Fetlar Breakwater	2,600,000
Bluemull Sound	18,800,000
Yell marshalling areas	2,000,000
Bressay Tunnel	34,400,000
Skerries South Mouth	200,000
Scalloway Dredging	3,000,000
West Pier Scalloway	5,000,000
Total Future Years	86,769,000

General & Reserve Fund

Service Area	Project Cost Centre	General & Reserve Fund Projects	Proposed Budget Allocation
Committed Projects			
Legal & Admin	GCB6006	Ness of Sound Farm	12,000
CPS	GCK2002	Contingency and Final Accounts	100,000
Sport & Leisure	G CJ3001	Water Based Facilities (Marinas)	382
Environment	GCY5129	Energy Recovery Plant	50,000
Environment	GCY5132	Replacement Esplanade Toilets	18,000
Environment	GCY5133	Rova Head Reinstatement	140,000
Environment	GCY5505	New Mid Yell Workshop	10,000
Culture	GCL4402	Cinema and Music Venue	1,500,000
Roads	GCY6121	B9081 Mid Yell (Hillend Section)	10,000
Schools	GCE1315	Mid Yell JHS	3,350,000
Community Care	GCA0231	Care Homes Fire Upgrade	248,000
Port Operations	RCM2315	Scalloway Water Main	250,000
		Sub Total	5,688,382
Rolling Programmes			
Community Care	GCA****	Social Care Rolling Programme	1,013,633
Asset & Property	Various	Building Services Asset Maintenance	929,000
Schools	GCE1500	Education Capital Maintenance	1,583,000
Sport & Leisure	G CJ3003	Refurbishment of Play Areas/Park Equipment	175,000
Sport & Leisure	G CJ3006	Community Organisation Grants	300,000
CPS	GCK2000	Feasibility Studies	400,000
Legal & Admin	GCB6001	Copper Pipework Replacement	150,000
Legal & Admin	GCB6004	Disability Discrimination Act Works	100,000
Housing	GCH3100	Housing Staff Accommodation	10,969
Housing	GCH3102	Housing Chalet Accommodation	12,175
Housing	GCH3120	Housing Temporary Accom (Homelessness)	16,025
ICT	GCX4300	PC & LAN replacement	278,000
ICT	GCX4312	Schools ICT Equipment	395,000
ICT	GCX4319	LV/MV Photocopiers	75,000
ICT	GCX4323	Shetland Public Sector Network	251,000
Environment	GCY****	Burial Ground Rolling Programme	412,500
Environment	GCY5139	Wheelie Bins	59,500
Environment	GCY****	Public Toilets Essential Maintenance	60,000
Roads	GCY6298	Advanced Design of Schemes	170,000
Roads	GCY6401	Scord Quarry Fixed Plant Replacement	250,000
Roads	GCY9200	Roads Rolling Minor Works	100,000
Roads	GCY9201	Roads Rolling Development Related Roads	60,000
Roads	GCY9202	Roads Rolling Bridge Replacements	350,000
Roads	GCY9203	Roads Rolling Footways	250,000
Roads	GCY9204	Roads Rolling Streetlighting Replacement	200,000

PROPOSED CAPITAL PROGRAMME 2010/11

General & Reserve Fund

Appendix 3

Service Area	Project Cost Centre	General & Reserve Fund Projects	Proposed Budget Allocation
Rolling Programmes cont			
Roads	GCY9206	Roads Rolling Traffic Management	50,000
Roads	GCY9207	Roads Rolling Accident Investigation & Prevention	100,000
Roads	GCY9208	Roads Rolling Air Service	20,000
Roads	GCY9209	Roads Rolling Works/Purchases Bus Services	40,000
Roads	GCY9210	Roads Rolling Road Reconstruction	300,000
Roads	GCY9211	Roads Rolling Roads Drainage Improvements	80,000
Roads	GCY9212	Roads Rolling Crash Barrier Replacement	150,000
Transport	GCY7254	Vehicle & Plant Replacement Programme	1,200,000
Transport	GCY7601	Ferries Capital Rolling Programme	180,000
Transport	GCY7626	Urgent Repairs to Ferry Terminals	290,000
		Sub Total	10,010,802
New Project Bids			
Environment	GCY5137	Gremista Landfill Phase 2	2,600,000
Roads	GCY6122	Papa Stour Road	15,000
Roads	GCY6124	Scord to School	20,000
Roads	GCY6125	B9071 Bixter to Aith Phase 2	150,000
Roads	GCY6126	Sletts Road Sea Wall	250,000
Roads	GCY6129	B9071 Parkhall to Sand Junction	20,000
Roads	GCY6130	B9082/3 Gutcher to Cullivoe	50,000
Roads	GCY6131	Gulberwick Road	15,000
Community Care	GCA0233	Joint Occupational Therapy Centre	2,600,000
Community Care	GCA0237	Eric Gray Replacement	500,000
Community Care	TBA	Laburnum - New Build	200,000
Community Care	TBA	Laburnum - Refurbishment/Extension	100,000
Community Care	TBA	Viewforth Replacement	400,000
Community Care	TBA	Isleshavn Replacement	500,000
Transport	GCY7214	Fetlar Breakwater	2,600,000
Transport	TBA	Skerries South Mouth	200,000
Transport	GCY7213	Whalsay Link	1,000,000
Port Operations	RCM2208	Scalloway Dredging	3,000,000
Port Operations	RCM2316	Walls Pier	1,400,000
		Sub Total	15,620,000
General & Reserve Fund Total			31,319,184

General Fund - Rolling Programmes

Service Area	Project Cost Centre	General Fund Projects	Proposed Budget Allocation
Community Care	GCA0100	SC RP Inspection Health & Safety	26,465
Community Care	GCA0101	SC RP Building Fabric	41,850
Community Care	GCA0102	SC RP Electrical Sys Upgrade	38,542
Community Care	GCA0103	SC RP Mechanical Sys Upgrade	16,492
Community Care	GCA0104	SC RP Plant Equip Replacements	2,160
Community Care	GCA0105	SC RP Safety Surfaces	22,055
Community Care	GCA0120	SC RP Special Studies	2,129
Community Care	GCA1000	SC RP Special Aids Stock Items	94,685
Community Care	GCA1001	SC RP Specialist Aids	277,433
Community Care	GCA1003	SC RP Minor Adaptions	46,703
Community Care	GCA1004	SC RP Major Adaptions	228,892
Community Care	GCA1005	SC RP Housing Renovations	145,831
Community Care	GCA1006	SC RP Professional Fees	24,528
Community Care	GCA1007	SC RP Specialist Aids Reurbishment	45,868
Asset & Property	TBA	Old Library Centre - Maintenance	85,000
Asset & Property	TBA	Train Shetland - Maintenance	100,000
Asset & Property	TBA	Old Craigielea - Maintenance	50,000
Asset & Property	TBA	Skerries/Foula School Houses - Maintenance	100,000
Asset & Property	TBA	Recladding Gremista Workshop - Maintenance	564,000
Asset & Property	TBA	Weathersta - Depot Buildings - Maintenance	10,000
Asset & Property	TBA	Laburnum - Maintenance	20,000
Schools	GCE1500	Education Capital Maintenance	1,583,000
Sport & Leisure	GCJ3003	Refurbishment of Play Areas/Park Equipment	175,000
Sport & Leisure	GCJ3006	Community Organisation Grants	300,000
CPS	GCK2000	Feasibility Studies	400,000
Legal & Admin	GCB6001	Copper Pipework Replacement	150,000
Legal & Admin	GCB6004	Disability Discrimination Act Works	100,000
Housing	GCH3100	Housing Staff Accommodation	10,969
Housing	GCH3102	Housing Chalet Accommodation	12,175
Housing	GCH3120	Housing Temporary Accom (Homelessness)	16,025
ICT	GCX4300	PC & LAN replacement	278,000
ICT	GCX4312	Schools ICT Equipment	395,000
ICT	GCX4319	LV/MV Photocopiers	75,000
ICT	GCX4323	Shetland Public Sector Network	251,000
Environment	GCY5121	Fetlar Burial Ground	38,000
Environment	GCY5124	Bixter Burial Ground	364,500
Environment	GCY5125	Voe Burial Ground	10,000
Environment	GCY5139	Wheelie Bins	59,500
Environment	GCY TBA	Public Toilets Essential Maintenance	60,000
Roads	GCY6298	Advanced Design of Schemes	170,000
Roads	GCY6401	Scord Quarry Fixed Plant Replacement	250,000

General Fund - Rolling Programmes cont.

Service Area	Project Cost Centre	General Fund Projects	Proposed Budget Allocation
Roads	GCY9200	Roads Rolling Minor Works	100,000
Roads	GCY9201	Roads Rolling Development Related Roads	60,000
Roads	GCY9202	Roads Rolling Bridge Replacements	350,000
Roads	GCY9203	Roads Rolling Footways	250,000
Roads	GCY9204	Roads Rolling Streetlighting Replacement	200,000
Roads	GCY9206	Roads Rolling Traffic Management	50,000
Roads	GCY9207	Roads Rolling Accident Investigation & Prevention	100,000
Roads	GCY9208	Roads Rolling Air Service	20,000
Roads	GCY9209	Roads Rolling Works/Purchases Bus Services	40,000
Roads	GCY9210	Roads Rolling Road Reconstruction	300,000
Roads	GCY9211	Roads Rolling Roads Drainage Improvements	80,000
Roads	GCY9212	Roads Rolling Crash Barrier Replacement	150,000
Transport	GCY7254	Vehicle & Plant Replacement Programme	1,200,000
Transport	GCY7601	Ferries Capital Rolling Programme	180,000
Transport	GCY7626	Urgent Repairs to Ferry Terminals	290,000
GF Rolling Programme Total			10,010,802

General & Reserve Fund - Future Years

General Fund Projects	Proposed Budget Allocation		General Fund Projects	Proposed Budget Allocation
Future Years				
Energy Recovery Plant wind Turbine	1,500,000		Energy Recovery Plant Water Jacket	420,000
Shetland College Extension (No 12)	4,522,000		Burial Grounds Software Package	50,000
Germatwatt Footway (Phase 1)	650,000		Lerwick Library Redevelopment (No 15)	2,477,000
Footways Rolling - Named Projects Balance	600,000		A971 Haggersta to Cova	2,100,000
B9071 Parkhall to Sand Junction	500,000		A971 W Burrafirth Junction to Brig o' Walls	3,150,000
Burra Bridge	100,000		Papa Stour Road - Cost Unknown	0
Trondra Bridge	100,000		Gulberwick Road - Cost Unknown	0
Burn Beach Sea Wall, Scalloway	250,000		Roads Testing Laboratory move from Hayfield	100,000
Walls Drainage Improvement	250,000		Lerwick Primary Provision (No 14) - Cost Unknown	0
Gremista Roads Store Replacement	200,000		Halls of Residence (No 23) - Cost Unknown	0
B9071 Laxo to Vidlin	50,000		Scalloway JHS Science Block (No 24)	300,000
B9122 Bigton Loop Road	150,000		Family Centre (No 19) - Cost Unknown	0
A970 Hillswick Junction to Urafirth	50,000		Leog - maintenance	70,000
SC RP Care Homes Additional Beds (No 9)	11,975,000		Water Based Facilities (Marinas) (No 4)	2,000,000
Sandwick JHS Additional Classrooms (No 20)	451,600		Indoor Childrens Activity Centre (No 22)	850,000
Happyhansel PS Additional Classrooms (No 21)	300,000		Offices for Transport Service	550,000
Sella Ness Pier	7,000,000		Whalsay Ferry	8,000,000
11 Hill Lane - maintenance	30,000		Bluemull Sound	18,800,000
2-4 Bank Lane - maintenance	20,000		Yell marshalling areas	2,000,000
Quendale House - maintenance	100,000		Bressay Tunnel	34,400,000
Town Hall Further Planned Improvements	352,000		West Pier Scalloway	5,000,000
Rural Toilets Spiggie	100,000			0
Rural Toilets Sands of Sound	100,000			0
General & Reserve - Future Years Total				109,617,600

PROPOSED CAPITAL PROGRAMME 2010/11
Housing Revenue Account

Appendix 6

Service Area	Project Cost Centre	Ring Fenced Housing Expenditure	Proposed Budget Allocation
HRA	HCH3303	Land/Property Acquisition	678,851
HRA	HCH3404	Environmental Improvements	259,266
HRA	HCH3512	Community Care Projects	107,103
HRA	HCH3525	Feasibility Studies HRA	25,655
HRA	HCH3526	Opportunity Conversion	124,862
HRA	HCH3706	Heating Replacement Programme	157,103
HRA	HCH3708	External Re-Render Programme	387,758
HRA	HCH3710	Lerwick Crudens	1,146,933
HRA	HCH3711	Retentions/Final Account	40,000
HRA	HCH3712	Housing Quality Standard	560,000
HRA	HCH3714	Replacement MIS System	0
HRA	HCH3800	Cap Rec/Sale Council Houses	(889,886)
HRA Total			2,597,645

Harbour Account

Service Area	Project Cost Centre	Funded directly from Harbour Account	Proposed Budget Allocation
Ports & Harbours	PCM2101	Ports & Harbours Plant & Equipment	70,000
Ports & Harbours	PCM2104	Ports & Harbours Nav Aids	70,000
		Sub Total	140,000
Service Area	Project Cost Centre	Existing Budget Allocation	Proposed Budget Allocation
Ports & Harbours	RCM2313	Sellaness Tugs	361,500
		Sub Total	361,500
		Harbour Account Total	501,500



REPORT

To: Shetland Islands Council

28 October 2009

From: Head of Legal and Administration

Appointment to the Shetland College/Train Shetland Board of Management Report No. LA-52-F

1.0 Introduction

- 1.1 The purpose of this report is to invite the Council to approve a nomination from Careers Scotland for an appointment to the Shetland College/Train Shetland Board of Management.

2.0 Links to Corporate Priorities

- 2.1 The recommendations in this report support the Council towards its priorities regarding the way it organises its business in terms of communication and partnership working.

3.0 Proposal

- 3.1 In accordance with the current constitution of the Board of Management, HIE Shetland were invited to nominate a representative on the Shetland College/Train Shetland Board of Management. However, HIE Shetland have declined to take up the invitation, and have indicated that they will not be doing so in the future.
- 3.2 In this regard, and following discussion with the Director of Shetland College and the Chairperson, it was agreed that Careers Scotland, as an appropriate partner organisation, be asked to nominate a representative.
- 3.3 In this regard, Careers Scotland have nominated Mr Andy Carter as their representative, and Members are asked to approve this nomination.
- 3.4 Mr Carter's background, knowledge and experience in education and careers, provides a sound basis for his appointment to the College Board.
- 3.5 The appointment of Mr Carter is supported by the Chairperson of the College Board.

4.0 Financial Implications

- 4.1 Attendance at meetings of the College Board by any person formally appointed by the Council, will be entitled to claim expenses, which will be taken from the Members' budgets.

5.0 Policy and Delegated Authority

- 5.1 In terms of Section 8.0 of the Council's Scheme of Delegations, only the Council may make alterations to the Scheme of Delegations, and appoint persons who are not Council Members, to a Committee, Sub-Committee or Board.

6.0 Recommendation

- 6.1 I recommend that the Shetland Islands Council:
 - 6.1.1 amend the Constitution of the College Board to remove reference to a representative from HIE Shetland, and to replace with a representative from Careers Scotland; and
 - 6.1.2 approve the appointment of Mr Andy Carter to the College Board as a representative of Careers Scotland.

October 2009
AC



REPORT

To: Shetland Islands Council

28 October 2009

From: Head of Legal and Administration

Appointment of a Veterans' Champion

Report No. LA-53-F

1.0 Introduction

- 1.1 The purpose of this report is to recommend appointment of a 'Veterans' Champion', at the request of the Scottish Parliament Cross Party Group on Supporting Veterans.

2.0 Links to Corporate Priorities

- 2.1 The recommendation in this report supports Corporate and Community priorities relating to social and cultural goals.

3.0 Appointments Required

- 3.1 The Scottish Parliament Cross Party Group on Supporting Veterans was set up during 2008, and its remit is to discuss issues affecting the veterans' community in Scotland, in order that those responsible for shaping policy recognise that the needs of some veterans may be different from other members of society.
- 3.2 At a meeting of the Group in April 2009, it was agreed that all local authorities would be contacted and asked to appoint a 'Veterans' Champion' to act as a focal point for veterans should they need assistance with particularly issues.
- 3.3 Accordingly, the Convener of the Group, Jeremy Purvis MSP, has written to the Council's Convener, asking that the Council consider this proposal, which would create an official link between the various veteran organisations, local authorities, government and the Parliament. Champions will be invited to attend a reception on 3 November, hosted by the Presiding Officer in conjunction with PoppyScotland and the 2009 Poppy Appeal. The Convener agreed to submit the proposal to this meeting of the Council for a decision.

- 3.4 Members are therefore asked to consider making an appropriate appointment.

4.0 Financial Implications

- 4.1 Appointment of Members will be given approved duty status, and therefore attendance at meetings in respect of this appointment will be met by the Council from existing Members' budgets. However, aside from the reception on 3 November, it is unlikely that any additional expenses will be incurred.

5.0 Policy and Delegated Authority

- 5.1 The appointment referred to in this report, has not been delegated to any Committee, and therefore a decision of the Council is required.

6.0 Recommendations

- 6.1 I recommend that the Council consider making an appropriate appointment of a Member to be the Council's 'Veterans' Champion'.

23 October 2009
AC



REPORT

To: Shetland Islands Council

28 October 2009

From: Executive Director - Infrastructure Services

**ELECTRICITY ACT 1989
THE ELECTRICITY WORKS (ENVIRONMENTAL IMPACT ASSESSMENT)
(SCOTLAND)
REGULATIONS 2000
SECTION 36 APPLICATION TO CONSTRUCT A WIND FARM AT VARIOUS
LOCATIONS IN SHETLAND**

By: Viking Energy Partnership

Application Ref: 2009/191/ECU

Status Report

1. Introduction

- 1.1 This report provides a status report on the above development proposal that has been submitted to the Scottish Government for approval and upon which the Council is expected to provide advice.
- 1.2 This report is for information.

2. Links to Council Priorities

- 2.1 The Council, in section 3 of the Corporate Plan, committed itself to basing all its decisions upon evidence and to eliminate unnecessary or unproductive tasks to help make sure that best use is made of resources and services in reaching its decisions.

3. Background

- 3.1 Viking Energy submitted an application under Section 36 of the Electricity Act 1989 (Consent required for construction etc. of generating stations) to the Scottish Ministers on 19 May 2009.
- 3.2 The Scottish Government's Energy Consents Unit (ECU) advertised the proposal in accordance with the Regulations, those adverts gave details of how to make representations and referred to the determination process it would follow.

- 3.3 The ECU formally consulted the Council on 27 May, stating that closing date for representations from the Council was to be 30 September.
- 3.4 29 May In response to requests from the public and pressure exerted (including by MP & MSP) the applicant agreed to extend the period for representations to be lodged with ECU until 28 July, with there being further Statutory Adverts placed in the press.
- 3.5 Towards the end of June the Planning Service completed its distribution of copies of the application and accompanying Environmental Statement in carrying out its own wide ranging consultation with the community, including all the Community Councils, organisations which it considered would have a useful input, and diverse interest groups (ranging from Crofters Commission, National Health Board, Scottish Water, Visit Shetland, the Equestrian Association of Shetland, the Shetland Bird Club and others). At the same time the Planning Service completed consultations within the Council, including Roads and Environmental Health. The Planning Service requested receipt of consultation responses as part of that process by 14 August.
- 3.6 At its meeting on 15 July 2009 the Council decided that the Council's response to the application will be the subject of a full debate by the Council, and that a series of public meetings will be held before it convenes to decide upon its response to the application (minute ref. 105/09). Also, in order to allow time for the extended public consultation exercise to take place the Council decided I should write to the ECU to seek an extension of three months to the period it has to make its response.
- 3.7 On 30 July 2009 the ECU stated that the applicant had agreed to extend the consultation period for the Council to 13 November; and a date for the Council meeting (on 5 November 2009) was set.
- 3.8 During August 2009, the ECU advertised its receipt of 'additional information', comprising a 'Planning Statement' submitted by Viking Energy; and responses to the initial consultation submitted by Scottish Natural Heritage (SNH) and Scottish Environment Protection Agency (SEPA). The adverts noted a further period for representations to be made not later than 16 September.
- 3.9 On 11 August 2009 the Planning Service completed its distribution of copies of the 'additional information' as part of a re-consultation, requesting responses within 21 days.
- 3.10 In accordance with its decision on 15 July, the Council held Public Consultation meetings in Brae, Aith, Dunrossness and Lerwick on 28 September – 1 October 2009 chaired by the Depute Chief Executive and attended by the Executive Director of Infrastructure Services. Transcripts of those meetings are in preparation.
- 3.11 Throughout this time the Planning Service has provided the ECU with copies of all representations to the proposal it has received direct.

- 3.12 The additional public consultation meetings directed by the Council have produced a substantial number of transcripts containing extensive community comments and I recommend that these be forwarded to the ECU.

4. Update and Present Position

- 4.1 On 7 October 2009 Viking Energy issued a statement to the press to the effect that it would be submitting an addendum to its application “in the turn of the year” (its phrase). That statement included the following comments:

“In response to particular issues raised by statutory, and other consultees, and the Shetland public, Viking Energy is preparing an Addendum to their Environmental Statement.

The Addendum will revise the information already submitted in the present Environmental Statement and will take into account views expressed over the past few months. As part of that process and in consultation with the Scottish Government’s Energy Consents Unit and Shetland Islands Council, the Energy Consents Unit has agreed that the Consents process be extended while the Addendum is produced and further consultation takes place. The Addendum will be subject to its own full statutory consultation process.”

- 4.2 On 8 October 2009 the ECU confirmed that the developer has agreed an extension to the consultation until 28 days after the date on which the addendum notice is last published in one or more local newspapers (such date being determined by the date that the developer submits the addendum).
- 4.3 On 9 October, the ECU asked the Planning Service to confirm that it will not now be providing advice on 13 November and the reason for that. I wrote to the ECU on 12 October 2009 and confirmed that the Planning Service will not be submitting advice on the above proposed development on the 13 November, as previously intimated due to Viking Energy’s announcement of its intention to submit an addendum to its previously deposited proposals.
- 4.4 On 19 October 2009 the ECU notified the Planning Service that the developer had agreed to an extension for our consultation response.
- 4.5 The actual date Viking will submit its addendum and, hence, the commencement of the resultant further consultation period are not known at this time. Accordingly, it is not possible to state what the timeline of this consent process will be henceforth.

5. Financial Implications

- 5.1 This report has no financial implications.

6. Policy and Delegated Authority

- 6.1 The Council decided at its meeting on 15 July 2009 (min 105/09) that decisions relating to this consent application would not be delegated to any committee so it is for the Council to consider this report.

7. Conclusion

- 7.1 Viking Energy has announced its intention to submit an addendum to its previously submitted application under s36 of the Electricity Act 1989 with a proposed submission date “in the turn of the year”.
- 7.2 When the addendum is submitted the ECU will then advertise the additional information and further consultation periods will be agreed. At an appropriate subsequent date the Council will have the opportunity to debate the proposal, further to minute 105/09.
- 7.3 It would be appropriate to postpone the meeting of the Council that was scheduled to debate the application on 5 November 2009 to a later date.

8. Recommendation

- 8.1 I recommend that the Council:
- a) Note the terms of this report
 - b) Forward the transcripts from the Council's public consultation meetings to the ECU
 - c) Postpone the meeting of the Council that was scheduled to debate the application on 5 November 2009 to a later date to be decided

Report Number: PL-40-09-F



REPORT

To: Shetland Islands Council

28 October 2009

From: Head of Legal and Administration

Monitoring Officer Report – Anderson High School

Report No. LA-40-F

1.0 Introduction

- 1.1 This report presents to the Council the findings of an investigation into complaints about the release of staff and public comments into the public domain.
- 1.2 As well as presenting the findings of the investigation for information, this report also deals with my conclusions and recommendations from me as Monitoring Officer to address the issues raised.

2.0 Link Corporate Priorities

- 2.1 The terms of this report are not directly linked to any of the Council's Corporate priorities.

3.0 Background

- 3.1 The basis for the complaints received was that copies of correspondence from individual members of teaching staff and the public were initially published as an appendix to an independent report on the review of the AHS, being presented to the Services Committee on 3 September 2009. Schools staff, in particular, complained that such comments were given in confidence, as per the terms of the invitation from the Services Committee Chairperson. Whilst no formal complaints were received from the public, Councillor J Wills complained that staff and public letters or emails sent to him or Councillor Angus by members of the public were not intended for publication and were also in confidence.
- 3.2 On 27 August 2009, following the complaint from Councillor Wills, and a request by the Chief Executive, I commissioned the Service Manager – Administration to undertake an investigation into the complaints, in order to provide me with an audit trail of events and

presentation of facts so that I may determine the degree of seriousness of the complaints and the basis for recommending any action to the Council.

3.3 The terms of reference were:

3.3.1 to determine whether comments from Lerwick Schools Staff were clearly sought in confidence, and if so, whether this was communicated onwards to the author of the report, or to any other member of staff concerned with the collation and distribution of the final papers;

3.3.2 to determine whether comments from the general public were clearly sought in confidence, and if so, whether, this was communicated onwards to the author of the report, or to any other member of staff concerned with the collation and distribution of the final papers; and

3.3.3 to determine whether any breach of Data Protection, or other, legislation has occurred.

4.0 Findings and Analysis

4.1 A copy of the Investigating Officer's report containing the findings is attached as Appendix 1. In order to allow this report to be considered, in public, copies of appendices to that report have not been replicated, but are available to Members, on request.

4.2 In summary, the findings of the investigation were that:

4.2.1 "...comments from Lerwick Schools Staff were clearly sought in confidence, but was not clearly communicated onwards to the author of the report, or to any member of staff concerned with the collation and distribution of the final papers."

4.2.2 "...comments from the general public were not clearly sought in confidence, but if that was the intention of those collating the comments, this intention was not communicated onwards to the author of the report, or to any member of staff concerned with the collation and distribution of the final papers."

4.2.3 "...the information released cannot be regarded under the 'confidentiality' or 'personal information' sections of the FOISA, nor under the Data Protection Act 1998. I am not aware of any other legislative restrictions relating to the documents which would override their publication in these terms. "

4.2.4 "Even if the case was argued that the information was personal, the Information Commissioner takes the view that where particular processing has caused, or is likely to cause,

someone to suffer loss or harm, or upset and anguish of a real nature, over and above annoyance level, and without justification, then this is regarded as substantial and unwarranted damage or distress. I have not been aware of any such outcome in this instance. The only conclusion from this is that the sharing of the information with Mr Laidler and subsequent reproduction in a public report did cause some upset but not substantially as to warrant any disciplinary or legal action.”

- 4.3 My analysis of the findings and conclusions from the report are as follows:

Illegality

- 4.3.1 I have accepted the terms of the Investigating Officer’s report, having discussed with her the processes she went through to procure the information and evidence and her thinking behind the conclusions and her approach to the legal question. I feel that she has produced a comprehensive report and there would be little to merit further exploration of this. I submit that the question of illegality or liability arising from any such breach remain as a matter to be determined in the unlikely event of any formal legal steps being instituted against the Council.

Maladministration

- 4.3.2 Aside from the question of the legality of processing of personal information explored in detail within the Investigating Officer’s report, there is also the question of the breach of promise or trust. This is referenced in paragraph 7.1 of her report under Conclusions but throughout her paper there are inferences to be drawn from what the expectations of parties might reasonably have been given the commitments offered when their comments were sought. I have concluded that on the evidence gathered there certainly was a reasonable expectation of confidentiality, in the sense of representations being provided not being attributed to specific individuals, and to that extent would submit that there has been maladministration because the confidentiality was not maintained. I would ask the Council to acknowledge that to be the case.
- 4.3.3 Although maladministration can be acknowledged to have occurred, the extent of any injustice or material loss is less easy to quantify. In many instances of maladministration (and a feature of any robust complaint handling procedure) the need to redress wrongs can be achieved by, at the very least, acknowledging that mistakes have been made and offering a fulsome and appropriate apology. Often this is specifically the

redress which is sought by a complainant. I have included this proposal within my recommendation, below.

5 Conclusions and Resolution

- 5.1 I'm aware that both the Chairman of Services Committee and the Chief Executive have issued separate apologies/ expressions of regret but if you acknowledge my finding of maladministration, it would be appropriate to make it publicly known that you are concerned that offers of confidentiality were not, ultimately, fulfilled.
- 5.2 It would also be appropriate that a formal apology from the Council be sent to each of the correspondents, signed by the Convenor.
- 5.3 That said, and in no way detracting from the suggested apology, I also have one or two points of reflection for the Council that are worthy of further consideration:-
 - 5.3.1 The Council frequently finds itself in receipt of letters of representation/objection/comment in relation to a range of our functions. Planning objections being a case in point. As a matter of Council policy we have stated that we're not prepared to give prominence to anonymous objections and it is a matter of standard practice for the full detail of objections to be accessible via our own website. We need to be aware of that context in relation to the matters considered here.
 - 5.3.2 In the course of undertaking projects, initiatives, strategies etc we rely heavily on stakeholder input from a range of sources. Any associated consultation plan must reflect the importance of your own staff as stakeholders, not least of all because of the sizable proportion of the community that your own staff base represents but also because they carry technical, professional expertise very often in the areas under consideration. Our Audit and Scrutiny Committee has recently been looking at this aspect of our communications policy and I suggest that the Council formalise these discussions by asking that this be a piece of work for a report and recommendation to the Council.
 - 5.3.3 In the Investigation Report at paragraph 5.1.3 and 5.1.4 arguably the crux point, the understanding of the requirement for confidentiality by Councillor Angus seems to have been interpreted as a concern for security of the originals, by the Council's consultant. I would submit that one output from a report to the Audit & Scrutiny Committee should be a Data Protection/FOISA protocol specifically addressing the expectations of consultants in meeting our legal obligations under the legislation.
 - 5.3.4 The Investigation report contains a number of indications to me that training in the handling of personal information require

refocus and we shall re-direct our training on such matters. Without further prompting my Committee Services Manager has undertaken to act on this for me.

6.0 Policy and Delegated Authority

6.1 In accordance with Section 8.0 of the Council's Scheme of Delegations, reports by the Monitoring Officer require to be considered by the Council.

7.0 Financial Implications

7.1 There are no financial implications associated with the recommendation in this report.

8.0 Recommendations

8.1 I recommend that the Council:

8.1.1 notes the findings of the Investigating Officer report;

8.1.2 accept that maladministration has occurred,

8.1.3 endorses my recommendations as stated in section 5 above.

October 2009
JRR

CONFIDENTIAL

INVESTIGATION REPORT

I was commissioned by Jan Riise, Head of Legal and Administration, on 27 August 2009 to undertake an investigation into the following complaints:

1.0 Complaint/Allegation

- 1.1 That copies of correspondence from individual members of teaching staff were published as an appendix to an independent report on the review of the AHS, being presented to the Services Committee on 3 September 2009. Staff complained that such comments were given in confidence, as per the terms of the invitation from the Services Committee Chairperson, Gussie Angus.
- 1.2 That copies of correspondence from individual members of the public published as an appendix to a report on the independent review of the AHS, being presented to the Services Committee on 3 September 2009. Whilst no complaints have been received from the public, Councillor Jonathan Wills complains that letters/emails sent to him and forwarded to Councillor Angus were not intended for publication and were also in confidence.

2.0 Terms of Reference

- 2.1 to determine whether comments from Lerwick Schools Staff were clearly sought in confidence, and if so, whether this was communicated onwards to the author of the report, or to any other member of staff concerned with the collation and distribution of the final papers;
- 2.2 to determine whether comments from the general public were clearly sought in confidence, and if so, whether, this was communicated onwards to the author of the report, or to any other member of staff concerned with the collation and distribution of the final papers; and
- 2.3 to determine whether any breach of Data Protection, or other, legislation has occurred.

3.0 Background

- 3.1 The Services Committee is scheduled to be held on Thursday 3 September 2009. The AHS Review report is to be presented to that meeting. The final report consists of a covering report by the Council's Chief Executive, and appended to that is the final AHS Independent Review report by Andrew Laidler. Mr Laidler's report has 12 appendices. Appendix 9 of the report was entitled "CE-39-F Appendix 9 – Public Letters of Representation". Appendix 10 was entitled "CE-39-F Appendix 10 – AHS Teachers Staff Poll.

4.0 Timeframe of Events

- 4.1 Councillor Angus sent an e-mail to the Head of Schools, Helen Budge, on 2 July 2009, suggesting a form of wording for an e-mail to be sent to AHS teachers. (Appendix 1). The e-mail was to invite comments from Lerwick schools staff on the proposals for the new AHS project.
- 4.2 Susan Manson, on behalf of Helen Budge, circulated an e-mail, containing the suggested wording from Councillor Angus, to Head Teachers of AHS, Bells Brae and Sound Schools, on 3 July 2009 (Appendix 2) asking that the information be circulated to all their staff.

- 4.3 The terms of the e-mail were also followed up via a letter to all staff [at their home addresses], given the school Summer holiday period had just commenced (Appendix 3).
- 4.4 Mr Laidler's draft report was circulated on 20 August 2009 to David Clark, enclosing all appendices. Mr Clark subsequently forwarded this report and appendices to the Convener and Vice-Convener, Councillor Angus, the Executive Director Education and Social Work [Hazel Sutherland], the Executive Director Infrastructure, and the Head of Legal and Administration (Appendix 4).
- 4.5 The final report and appendices were sent to Committee Services on 25 August 2009 at 13:09 for including in the Services Agenda (Appendix 5).
- 4.6 Hazel Sutherland advised David Clark and Andrew Laidler on 25 August 2009 at 17:51 that there were errors in the appendices (Appendix 6).
- 4.7 Andrew Laidler confirmed that he would review the appendices (Appendix 7).
- 4.8 Andrew Laidler e-mailed Irene Simpson on 26 August 2009 at 08:42 advising of revised appendices. Irene confirmed the appendices would be replaced when received (Appendix 8).
- 4.9 Agenda for Services Committee had not been released, and Kaye MacKay advised Lynne Geddes that appendices were being changed.
- 4.10 E-mail from Kay MacKay to Lynne Geddes on 26 August at 09:13, enclosing revised Appendices 9 and 10 (Appendix 9).
- 4.11 Services Committee agenda papers were collated and sent for photocopying on 26 August at approximately 11 a.m., and placed on the Council's website. An agenda notification was sent out at 11:21 (Appendix 14).
- 4.12 Telephone call from Councillor Angus on 26 August at 16:54 to me, advising that complaints were being received from AHS staff that their personal details had been published. Appendix 10 was removed from website. I contacted local media by e-mail and advised that the appendix had been withdrawn for reasons of confidentiality, and requested them not to refer to that appendix during their reporting.
- 4.13 On 27 August 2009 I was appointed to investigate the complaints from AHS staff. I was advised that a further complaint had been received by the Head of Legal and Administration from Councillor Jonathan Wills, mainly on the basis of breach of Data Protection legislation not only in respect of AHS or other SIC staff, but members of the public and possible breach of confidences.
- 4.14 Paper copies of the agenda had already been copied and circulated the previous evening, and therefore it was no longer possible to retrieve and redact those agenda papers.
- 4.15 I obtained copies of Appendices 9 and 10. I noticed that Appendix 9 also had comments from Teachers at other schools, who had clearly responded to the invitation from Councillor Angus. Accordingly, I removed Appendix 9 from the website.

5.0 Complaints and Exposition

5.1 Complaints re. School staff - Publication

- 5.1.1 I interviewed Councillor Angus on 27 August [Appendix 18]. Councillor Angus confirmed that the terms of the invitation from Councillor Angus for school staff to submit their comments to him on the proposals was two-fold: [1] to ensure that their

views would form part of the final review; and [2] that they could do so by submitting their views confidentially to him.

- 5.1.2 Councillor Angus received numerous responses – 18 from the AHS and 28 from others, including members of the public and staff from other schools. He collated these in a folder which remained locked in his office.
- 5.1.3 The AHS staff complaints are that whilst they would have expected their views to be taken into account, they expected some form of anonymity. Councillor Angus was clearly of the same view when interviewed. He said he did not expect the actual documents to be copied in full – either the information extracted, or the documents issued with names, etc redacted. Councillor Angus said that Mr Laidler had asked to see the comments received, and the folder was passed to him. Councillor Angus said that he told Mr Laidler the contents were confidential, but he was to put the folder back to him when finished.
- 5.1.4 Mr Laidler denies being told the information was confidential. He states in his e-mail to me [Appendix 13] that he knew the information existed because Councillor Angus had repeatedly referred to this information and that it should be included within the Independent Review report. When Mr Laidler and Councillor Angus met, the folder was handed over to Mr Laidler, and Mr Laidler said the information was not specifically discussed, nor did Councillor Angus indicate that the information was confidential or should be amended or redacted in any way to protect the identities of individuals.

5.2 *Complaints re. General Public/Other Staff - Publication*

- 5.2.1 The statements in section 5.1.1 and 5.1.4 above, in relation to AHS staff comments, pertains also to other Lerwick Schools staff comments in the Appendix.
- 5.2.2 Councillor Angus confirmed in his interview that the other views submitted by the public were unsolicited comments received as a result of a public meeting regarding AHS proposals (Appendix 10) and media reporting. In one instance, an e-mail was sent from Councillor Wills to Councillor Angus, containing comments from an individual which, amongst other things, gave views on the AHS proposal. Whilst, Councillor Wills states in his e-mail complaint that he had passed on the letter “to the Chief Executive for the review team to look at, as the second half of the letter made some points about the AHS which seemed worthy of consideration.”, the copy distributed with the agenda papers was the e-mail Councillor Wills forwarded to Councillor Angus, who included this in his portfolio of comments received.
- 5.2.3 None of the e-mails or letters makes a request for confidentiality.

5.3 *Complaint re. Breach of Data Protection*

- 5.3.1 Councillor Wills has raised in his complaint the possibility that the Council has breached its own procedures and that of Data Protection by releasing personal e-mail and home addresses, breaching a promise of confidentiality, and in particular has breached a confidence by the release of information not pertaining to the AHS debate.
- 5.3.2 There are several connected matters within each of these complaints, and I have addressed these in my findings.

6.0 Findings

The findings of this investigation are as follows:

6.1 to determine whether comments from Lerwick Schools Staff were clearly sought in confidence, and if so, whether this was communicated onwards to the author of the report, or to any other member of staff concerned with the collation and distribution of the final papers –

- 6.1.1 I find that there is evidence that the information from AHS staff was clearly sought in confidence by Councillor Angus. There is no definitive evidence either from correspondence or from statements made, that Councillor Angus and Mr Laidler were clear that the responses were to be anonymised by summary or redaction before being included as an appendix to Mr Laidler's report. The views of Schools staff did not form part of Mr Laidler's remit and therefore he did not require to peruse the comments, but accepted the view of Mr Angus that they should inform the review process. It is not clear what Councillor Angus thought Mr Laidler would do with the submissions, but no attempts were made to anonymise the information, either by Councillor Angus, Mr Laidler or any Council staff who were asked to copy, scan or distribute the documents.
- 6.1.2 Town Hall staff were instructed by Mr Laidler to copy and scan all the documents, and did not view, nor were they asked to, the information contained within them. Town Hall staff, nor Committee Services staff, were aware of the status of any of the submissions received, having not been part of the e-mail or letter correspondence between Councillor Angus and the Schools Service staff.
- 6.1.3 There was an opportunity to bring any concerns to the attention of either Mr Laidler or Mr Clark when the draft report was originally issued with all the appendices attached [Appendix 4], but there is no evidence to show that publication of the appendices was raised as a cause for concern at that stage. There is evidence that there was some concern that the submissions were not complete [Appendices 6 and 7], and the final appendices were in fact re-submitted to Committee Services [Appendix 9].
- 6.1.4 There was no indication on the documents containing the staff and public views that they were confidential, and therefore it was not questioned by Committee Services staff when the final documents were received for wider circulation as part of the Agenda papers. Committee Services staff did question by telephone whether some other appendices were to be included, as they were marked "confidential", and confirmation was received that these appendices were not exempt from publication.
- 6.1.5 The Chief Executive, as author of the covering report to the Council, has confirmed he was unaware that the staff views sought by Councillor Angus were intended to be confidential, and only became aware of the issue when the first complaints were received by him.
- 6.1.6 With regard to my terms of reference, it can be determined that comments from Lerwick Schools Staff were clearly sought in confidence, but was not clearly communicated onwards to the author of the report, or to any member of staff concerned with the collation and distribution of the final papers

6.2 to determine whether comments from the general public were clearly sought in confidence, and if so, whether, this was communicated onwards to the author of the report, or to any other member of staff concerned with the collation and distribution of the final papers -

- 6.2.1 There is no evidence that information received from members of the public would be kept in confidence. The Council has made it clear that public comments were welcome, and reiterated this before and during the public meeting held to discuss the matter (Appendix 10).

- 6.2.2 There was an assumption made by Councillor Wills that the information he forwarded to Councillor Angus would remain confidential, but there is no evidence stating that it was confidential. With hindsight, it would have been prudent to edit one or more e-mails which contained information irrelevant to the AHS debate, but I have not been provided with any evidence to suggest that there has been any substantial distress or damage caused by release of any part of Appendix 9 to the report.
- 6.2.3 With regard to my terms of reference for this investigation report, it can be determined that comments from the general public were not clearly sought in confidence, but if that was the intention of those collating the comments, this intention was not communicated onwards to the author of the report, or to any member of staff concerned with the collation and distribution of the final papers.

6.3 to determine whether any breach of Data Protection, or other, legislation has occurred –

- 6.3.1 The complicated nature of this matter relates to the fact that it is not clear from correspondence as to whether Councillor Angus made the promise of confidentiality in his role as Councillor for the area, or on behalf of the Council. Despite Councillor Angus making a promise of confidentiality, he cannot bind the Council to such confidentiality. In considering whether the disclosure of staff comments would firstly constitute an actionable breach of confidence under the Freedom of Information (Scotland) Act 2002 ["FOISA"], I have to consider whether (1) the comments were made to the Council from another person, and (2) whether the release would be result in an actionable breach of confidence.
- 6.3.2 The legislation is quite clear that a public authority's internal documents cannot be used as the basis for an actionable breach of confidence, as the Council is a single legal 'person' and therefore documents prepared by one person, or department or section and given to another, is not defined as being obtained from another "person". There are cases where confidentiality can be given to individuals, especially in disciplinary cases where witnesses are giving evidence in their own right, and not as part of the Authority.
- 6.3.3 The request for comments from Councillor Angus was made to staff who worked in the Schools Service, who would not otherwise have been directly asked for their comments. All but 3 AHS staff replied to Councillor Angus using the Council's e-mail service, and their opinions were sought and generally provided on the basis of their professional involvement in education. It can be argued that such views are peppered with personal opinion also, but it is difficult for any recipient to be clear on that in all cases. Although it is arguable, confidentiality may have been maintained under Freedom of Information legislation had Councillor Angus retained the information himself and not distributed it further, but by passing it to Mr Laidler in its entirety for use in a public and Council report, the information then became information 'held' by the Council and subject to the provisions of the FOISA.
- 6.3.4 Regarding Data Protection, guidance issued by the UK Information Commissioner is that the two main elements of personal data are that the information must 'relate to' a living person, and that the person must be identifiable. Information will 'relate to' a person if it is about them, linked to them, has some biographical significance for them, is used to inform decisions affecting them, has them as its main focus, or impacts on them in any way. None of the information contained in Appendices 9 or 10 of Mr Laidler's report contains personal data in this respect, and is therefore not exempt from release under section 38(1)(b) of the FOISA. Many contain personal addresses and telephone numbers, which are obtainable through public telephone directories and other sources. Personal e-mail addresses have also been replicated, but again, this is not regarded as biographical, nor sensitive information.

- 6.3.5 It is my view that the comments received did not have the author as the focus, do not contain biographical or sensitive information, and therefore do not constitute 'personal information' and cannot be considered under the terms of the Data Protection Act 1998.
- 6.3.6 Even if the case was argued that the information was personal, the Information Commissioner takes the view that where particular processing has caused, or is likely to cause, someone to suffer loss or harm, or upset and anguish of a real nature, over and above annoyance level, and without justification, then this is regarded as substantial and unwarranted damage or distress. I have not been aware of any such outcome in this instance. The only conclusion from this is that the sharing of the information with Mr Laidler and subsequent reproduction in a public report did cause some upset but not substantially as to warrant any disciplinary or legal action.
- 6.3.7 Regarding the terms of reference for this investigation, I have concluded that the information cannot be regarded under the 'confidentiality' or 'personal information' sections of the FOISA, nor under the Data Protection Act 1998. I am not aware of any other legislative restrictions relating to the documents which would override their publication in these terms.

7.0 Conclusion

- 7.1 This investigation has highlighted an assumption on the part of Councillors, and Council staff, that confidences would be maintained. Without this being clearly communicated, or understood, throughout the entire process, it was inevitable that individuals would be confused as to the status of those documents and feelings of an apparent breach procedures or trust.
- 7.2 It clear that there was no deliberate intention to embarrass or misuse the documents or the information contained in them, and their release was due to lack of clear communication and understanding.
- 7.3 I have concluded that given Councillor Angus has already publicly stated his part in the matter, and having taken some accountability (Appendices 16 and 17), that copies of the appendices were withdrawn from the website as soon as the problem became apparent, and that individual apologies have been made, there is no further action to be taken that would either benefit or compensate any of the individuals concerned.
- 7.4 However, it is for the Commissioning Officer, Head of Legal and Administration, to decide, on the basis of the evidence presented, what action he wishes to take and/or recommend.

Anne Cogle
Service Manager – Administration
6 September 2009

Evidence – Appendices

- 1 e-mail dated 2 July 2009 from Councillor Angus to Helen Budge (Head of Schools)
- 2 e-mail dated 3 July 2009 from Susan Manson (on behalf of Helen Budge) to Head Teachers AHS, Bells Brae Primary and Sound Primary Schools
- 3 Letter dated 6 July 2009 from Helen Budget to all staff at AHS, Bells Brae and Sound

- 4 e-mail dated 20 August 2009 at 11:23 from Andrew Laidler to David Clark enclosing draft report and appendices, subsequently forwarded by David Clark at 12:05 to Sandy Cluness, Leslie Angus, Josie Simpson, Hazel Sutherland, Gordon Greenhill and Jan Riise
- 5 e-mail dated 25 August 2009 at 13:09 from Irene Simpson to Reports-Administration, attaching final report and appendices
- 6 e-mail dated 25 August 2009 at 17:13 from Hazel Sutherland to David Clark and Andrew Laidler regarding errors in Appendices 9 and 10
- 7 e-mail dated 25 August 2009 at 17:51 from Andrew Laidler to Hazel Sutherland
- 8 e-mail dated 26 August 2009 at 08:42 from Andrew Laidler to Irene Simpson, and response from Irene Simpson to Andrew Laidler at 08:47
- 9 e-mail dated 26 August 2009 at 09:13 from Kaye Mackay to Lynne Geddes enclosing replacement appendices 9 and 10
- 10 copy of Notice calling Public Meeting on Wednesday 22 July 2009
- 11 Appendix 9 of Independent Review Report
- 12 Appendix 10 of Independent Review Report
- 13 e-mail dated 27 August 2009 from Andrew Laidler to Anne Cogle
- 14 Services Committee Agenda Notification e-mail dated 26 August 11:21
- 15 e-mail dated 27 August 2009 09:32 from Leslie Angus to David Clark and Jan Riise, forwarded from Jan Riise to me 17:01, drafting apology
- 16 Extract from Shetland News website 28 August 2009
- 17 Transcript from BBC Radio Shetland, 27 August 2009
- 18 Statement from Councillor Angus dated 31 August 2009

END