



Shetland Islands Council

20 September 2012

Statutory Consultation – Olnafirth Primary School

Report No. SIC-0920-CS16

Chairs' Report – Education and Families Committee – 29 August 2012

1.0 Summary

- 1.1 The purpose of this report is to consider recommendations from the Chair of the Education and Families Committee in relation to a report requiring a Council decision.
- 1.2 The Committee considered a report which advised Members of the current advice from the Scottish Office and CoSLA on rural school closures, as a result of the Commission on Rural Education delaying the publication of its final report until the end of 2012 at the earliest.

2.0 Decision Required

- 2.1 The Council **RESOLVES** to adopt the recommendations from the Education and Families Committee, namely to:
 - Further postpone the statutory consultation on the proposed closure of Olnafirth Primary School until after the Commission on Rural Education has reported its findings; and
 - Note that this will not prevent further reporting on the future of Olnafirth Primary School as part of the Refresh of the Blueprint for Education.

3.0 Report

- 3.1 The report concluded that, given the advice from the Scottish Government and CoSLA it would be unwise to proceed to statutory consultation on a school closure proposal at this time.

- 3.2 Copies of the report have been previously circulated, or can be accessed via the Council's website at the links shown, or by contacting Committee Services.
- 3.3 The Chair will present information to the Council as to any debate or issues that the Committee considered.

4.0 Implications

- 4.1 Detailed information concerning the proposals are contained within the report already circulated to Members, including the strategic and resources implications for the Council.
- 4.2 There are no additional implications to be considered by the Council, other than those set out in the report.

For further information please contact:

Vaila Wishart, Chair of Education and Families Committee
11 September 2012

List of Appendices

None

Background documents:

Report No. CS-16-12

www.shetland.gov.uk/coins/submissiondocuments.asp?submissionid=13540

END



Shetland Islands Council

20 September 2012

Freefield Centre Review

Report No. SIC-0920-CC20

Chair's Report – Social Services Committee – 21 August 2012

1.0 Summary

- 1.1 The purpose of this report is to consider recommendations from the Chair of the Social Services Committee in relation to a report requiring a Council decision.
- 1.2 The Committee considered a report which presented information regarding the review of the services provided by the Council at the Freefield Centre in Lerwick.

2.0 Decision Required

- 2.1 The Council **RESOLVES** to adopt the recommendations from the Social Services Committee, namely to await a report following the outcome of the review to be presented to the Social Services Committee before Christmas 2012.

3.0 Report

- 3.1 The report concluded that the type of service provided by the Council at Freefield in Lerwick is not available in other areas of Shetland, and that access to the service is open and does not adhere to the Council's eligibility criteria for community care services.

The proposals in the report would achieve the target of £80,000 savings per annum presented as an option for budget cuts in the report to the Council on 9 February 2012. This would be done in close consultation and involvement of service users, building on their ideas.

The Community Care Service would continue to support the most vulnerable service users by meeting their assessed needs, and ongoing work with VAS and other voluntary sector groups through the

Reshaping Care programme will continue to explore and develop options for alternative social activity programmes in the community.

- 3.2 Concern was expressed that approval of the recommendations in the report would mean that Members would not have a chance to consider all the options that were being proposed, and that any further decision would be outwith their control. Members also commented that they would like to see more detail regarding the options available before any further decision was made regarding service provision.
- 3.3 Therefore the Committee agreed to note the report, and await a report following the outcome of the review to be presented to the Committee before Christmas 2012.
- 3.4 Copies of the report have been previously circulated or can be accessed via the Council's website at the link shown, or by contacting Committee Services.
- 3.5 The Chair will present any information to the Committee as to the debate or the issues that the Committee considered.

4.0 Implications

- 4.1 Detailed information concerning the proposals are contained within the report already circulated to Members, including the strategic and resources implications for the Council.
- 4.2 There are no additional implications to be considered by the Council, other than those set out in the report.

For further information please contact:

Cecil Smith, Chair of Social Services Committee
11 September 2012

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None

Background documents:

Freefield Centre Review
Report No: CC-20-12-F

www.shetland.gov.uk/coins/Agenda.asp?meetingid=3696

END



Shetland Islands Council

20 September 2012

Day Care Review

Report No. SIC-0920-CC19

Chair's Report – Social Services Committee – 21 August 2012

1.0 Summary

- 1.1 The purpose of this report is to consider recommendations from the Chair of the Social Services Committee in relation to a report requiring a Council decision.
- 1.2 The Committee considered a report which presented information regarding the review of day care services provided in care centres across Shetland.

2.0 Decision Required

- 2.1 The Council **RESOLVES** to adopt the recommendation from the Social Services Committee, namely to:

Approve the proposals for changes to the day care services currently provided at care centres including that:

1. The Community Care Service continues to work with day care customers and their families/carers to identify alternative support and venue(s) for lunch and social club activities that will contribute to realising the savings target in 2012/13 of £1M;
2. Options for voluntary sector provision will be promoted through the work being done as part of the Reshaping Care for Older People work programme; and
3. Staff in Community Care continue to support people with an assessed need in line with the eligibility criteria set out in the With You For You process.

and that a further review should be presented to the Committee before Christmas confirming that the proposals in the report have been implemented to the satisfaction of the users.

3.0 Report

5.1 The report concluded that:

- Day care is still used predominantly for social activities and to provide short breaks for family carers.
- The service is highly valued by the people who attend day care and their families.
- This type of service can be provided successfully by voluntary groups in the community and there is funding available through Reshaping Care to pump prime projects.
- On-going work with VAS and other voluntary sector groups through the Reshaping Care programme will continue to explore and develop options for alternative social activity programmes in the community.
- The proposals in this report would contribute to the target of £2M savings per annum presented as an option for budget cuts in the report to the Council on 9 February 2012.
- The Community Care Service would continue to support the most vulnerable service users by meeting their assessed needs.

5.2 Members commented that they would like to see something coming back to the Committee demonstrating that users were satisfied with the way things were moving forward, and therefore, following a vote, a further recommendation to that effect was added.

5.3 Copies of the report have been previously circulated or can be accessed via the Council's website at the link shown, or by contacting Committee Services.

5.4 The Chair will present any information to the Committee as to the debate or the issues that the Committee considered.

4.0 Implications

4.1 Detailed information concerning the proposals are contained within the report already circulated to Members, including the strategic and resources implications for the Council.

4.2 There are no additional implications to be considered by the Council, other than those set out in the report.

For further information please contact:

Cecil Smith, Chair of Social Services Committee
11 September 2012

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None

Background documents:

Day Care Review

Report No: CC-19-12-F

www.shetland.gov.uk/coins/Agenda.asp?meetingid=3696

END



Shetland Islands Council

20 September 2012

Audit and Standards Work Programme

Report No. SIC-0920-IP14

Chair's Report – Audit and Standards Committee – 14 August 2012

1.0 Summary

- 1.1 The purpose of this report is to consider a recommendation from the Chair of the Audit and Standards Committee.
- 1.2 The Audit and Standards Committee was presented with a report, which asked the Committee to endorse the proposals for the Audit and Standards Committee forward work programme.

2.0 Decision Required

- 2.1 That the Council **RESOLVES** to approve the proposals for the Audit and Standards Committee work programme.

3.0 Report

- 3.1 The report set out proposals for the overall shape of the Audit and Standards Committee forward work programme for comment and expansion by the Committee Office Bearers and Members.

At the meeting on 14 August, the Committee agreed to approve the recommendations in the report, but that the Audit and Standards Committee Work Programme be commended to the Council

- 3.2 Copies of the report have been previously circulated, or can be accessed via the Council's website at the links shown, or by contacting Committee Services.
- 3.3 The Chair will present information to the Council as to any debate or issues that the Committee considered.

4.0 Implications

- 4.1 Detailed information concerning the proposals are contained within the report already circulated to Members, including the strategic and resources implications for the Council.
- 4.2 There are no additional implications to be considered by the Council, other than those set out in the report.

For further information please contact:

Allison Duncan, Chair of Audit and Standards Committee
22 August 2012

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None

Background documents:

Report IP-14

<http://www.shetland.gov.uk/coins/submissiondocuments.asp?submissionid=13466>

END



Shetland Islands Council

20 September 2012

Shetland College Budget Estimates 2012-13

Report No. SIC-0920-SCB011

Chairs' Report – Shetland College Board – 3 July 2012

1.0 Summary

- 1.1 The purpose of this report is to consider a recommendation from the Chair of the Shetland College Board in relation to a report requiring a Council decision.
- 1.2 The Committee considered a report which provided information on the sources of funding for Shetland College for the Academic Year 2012/13 and recommended adoption of the proposed budget.

2.0 Decision Required

- 2.1 The Council **RESOLVES** to adopt the recommendations from the Shetland College Board, namely to approve the proposed budget for Shetland College for 2012/13.

3.0 Report

- 3.1 Copies of the report have been previously circulated, or can be accessed via the Council's website at the links shown, or by contacting Committee Services.
- 3.2 The Chair will present information to the Council as to any debate or issues that the Committee considered.

4.0 Implications

- 4.1 Detailed information concerning the proposals are contained within the report already circulated to Members, including the strategic and resources implications for the Council.

- 4.2 There are no additional implications to be considered by the Council, other than those set out in the report.

For further information please contact:

Drew Ratter, Chair of Shetland College Board
11 September 2012

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None

Background documents:

Report No. SCB-011

<http://www.shetland.gov.uk/coins/submissiondocuments.asp?submissionid=13430>

END



Shetland Islands Council

20 September 2012

Shetland Agricultural Strategy – 2012-16

Report No. SIC-0920-DV038

Joint Chairs' Report – Development Committee – 5 September 2012 and Executive Committee – 10 September 2012

1.0 Summary

- 1.1 The purpose of this report is to consider recommendations from the Chairs of the Development Committee and the Executive Committee in relation to a report requiring a Council decision.
- 1.2 The Committees considered a report which sought approval of the Shetland Agricultural Strategy 2012-16.

2.0 Decision Required

- 2.1 The Council **RESOLVES** to adopt the recommendations from the Development Committee and the Executive Committee, namely to approve the Agricultural Strategy 2012-16 as part of the Council's strategic policy framework.

3.0 Report

- 3.1 The report concluded that the Agricultural Strategy would help to co-ordinate the future policy direction at a time of public funding restrictions and changes to our agricultural industry.
- 3.2 Copies of the report have been previously circulated, or can be accessed via the Council's website at the links shown, or by contacting Committee Services.
- 3.3 The Chairs will present information to the Council as to any debate or issues that the Committee considered.

4.0 Implications

- 4.1 Detailed information concerning the proposals are contained within the report already circulated to Members, including the strategic and resources implications for the Council.
- 4.2 There are no additional implications to be considered by the Council, other than those set out in the report.

For further information please contact:

Alastair Cooper, Chair of Development Committee
Gary Robinson, Chair of Executive Committee
29 August 2012

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None

Background documents:

Shetland Agricultural Strategy 2012-16
Report No. DV038

<http://www.shetland.gov.uk/coins/submissiondocuments.asp?submissionid=13565>

END



Shetland Islands Council

20 September 2012

Revised Code of Conduct for All Staff

Report No. SIC-0920-HR24

Chairs' Report – Executive Committee – 10 September 2012

1.0 Summary

- 1.1 The purpose of this report is to consider a recommendation from the Chair of the Executive Committee in relation to a report requiring a Council decision.
- 1.2 The Committee considered a report which sought approval for a revised Code of Conduct for all staff.

2.0 Decision Required

- 2.1 The Council **RESOLVES** to adopt the recommendations from the Executive Committee, namely to approve the revised Code of Conduct for all staff, as part of the Council's Constitution, including the recommended changes agreed through consultation at the Employees JCC, including:

Updating the style and narrative of the Code to put an emphasis on encouraging staff and promoting a positive approach; Section 25 to be moved nearer the start of the policy; and that paragraph 7.3 be amended to require employees to seek "advice/guidance and, where appropriate, approval" from line managers prior to undertaking other paid employment.

3.0 Report

- 3.1 The report concluded by stating that the current Code has been in place since 1996 and requires review to bring it in line with and complement the Council's Protocol for Councillor / Officer Relations introduced in May 2011.

- 3.2 The Committee also noted that, once approved, a summary leaflet and / or a Frequently Asked Questions (FAQ's) will be produced to assist employees with this lengthy and at times complex document. We shall also look to review and improve the Register of Interests and Multiple Employment form and its administrative process.
- 3.3 Copies of the report have been previously circulated, or can be accessed via the Council's website at the links shown, or by contacting Committee Services.
- 3.4 The Chair will present information to the Council as to any debate or issues that the Committee considered.

4.0 Implications

- 4.1 Detailed information concerning the proposals are contained within the report already circulated to Members, including the strategic and resources implications for the Council.
- 4.2 There are no additional implications to be considered by the Council, other than those set out in the report.

For further information please contact:

Gary Robinson, Chair of Executive Committee
11 September 2012

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None

Background documents:

Report No HR-24

<http://www.shetland.gov.uk/coins/submissiondocuments.asp?submissionid=13600>

END



Shetland Islands Council

20 September 2012

Community Councils – Financial Position

Report No. SIC-0920-F040

Chairs' Report – Executive Committee – 10 September 2012

1.0 Summary

- 1.1 The purpose of this report is to consider a recommendation from the Chair of the Executive Committee in relation to a report requiring a Council decision.
- 1.2 The Committee considered a report which informed Members of the position of the Community Council review following a meeting with the Association of Community Council/SIC Joint Liaison Group meeting on 24 August 2012, and approved a second tranche of grant payments for 2012/13.

2.0 Decision Required

- 2.1 The Council **RESOLVES** to adopt the recommendations from the Executive Committee, namely to approve payment of a further 40% of the Community Council grants for 2012/13, as set out below.

3.0 Report

- 3.1 The report concluded by recommending that the Council approve a further payment of 40% of the Community Council budget for 2012/13, retaining £11,000 of budget to meet the savings required in 2012/13, should the suggestions from Community Councils not materialise into cashable savings .
- 3.2 Copies of the report have been previously circulated, or can be accessed via the Council's website at the links shown, or by contacting Committee Services.

- 3.3 The Chair will present information to the Council as to any debate or issues that the Committee considered.

4.0 Implications

- 4.1 Detailed information concerning the proposals are contained within the report already circulated to Members, including the strategic and resources implications for the Council.
- 4.2 There are no additional implications to be considered by the Council, other than those set out in the report.

For further information please contact:

Gary Robinson, Chair of Executive Committee
11 September 2012

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None

Background documents:

Report No. F-040-F

<http://www.shetland.gov.uk/coins/submissiondocuments.asp?submissionid=13598>

END



Shetland Islands Council

20 September 2012

Progress Report – Asset Investment Plan

Report No. SIC-0920-CPS09

Chairs' Report – Executive Committee – 10 September 2012

1.0 Summary

- 1.1 The purpose of this report is to consider a recommendation from the Chair of the Executive Committee in relation to a report requiring a Council decision.
- 1.2 The Committee considered a report which advised on the progress of projects within the 5-year Asset Investment Plan. It also advised on slippage, transfers and savings that have occurred and makes recommendations on re-allocation. 'Spend to Save' budgets created from the approved Capital Spend to Save Budget (Minute Ref 96/11) were also detailed.

2.0 Decision Required

- 2.1 The Council **RESOLVES** to adopt the recommendations from the Executive Committee, namely to approve the allocation of budgets, slippage, savings and transfers in Appendix B.

In addition, the Committee asked that the Council be given reassurance that major projects, such as ET and Taing House Extension will proceed as plan, and not be subject to any delays due of lack of in house resources.

3.0 Report

- 3.1 Copies of the report have been previously circulated, or can be accessed via the Council's website at the links shown, or by contacting Committee Services.

- 3.2 The Chair will present information to the Council as to any debate or issues that the Committee considered.

4.0 Implications

- 4.1 Detailed information concerning the proposals are contained within the report already circulated to Members, including the strategic and resources implications for the Council.
- 4.2 There are no additional implications to be considered by the Council, other than those set out in the report.

For further information please contact:

Gary Robinson, Chair of Executive Committee
11 September 2012

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None

Background documents:

Report No. CPS-09-F

<http://www.shetland.gov.uk/coins/submissiondocuments.asp?submissionid=13594>

END



Shetland Islands Council

20 September 2012

Capital Programme Gateway Process – Service Need Case Reports Report No. SIC-0920-CPS10

Chairs' Report – Executive Committee – 10 September 2012

1.0 Summary

- 1.1 The purpose of this report is to consider a recommendation from the Chair of the Executive Committee in relation to a report requiring a Council decision.
- 1.2 The Committee considered a report which presented eleven projects that have been considered by the Corporate Management Team based on the submission of Service Need Case (SNC) reports. These projects already sit provisionally within the Council's Asset Investment Plan (AIP) 2012-17, subject to the gateway process. Copies of the Service Need Case Reports have been provided for information in the Members Room at Lystina House.

2.0 Decision Required

- 2.1 The Council **RESOLVES** to adopt the recommendations from the Executive Committee, namely to approve for implementation the projects described in the report.

3.0 Report

- 3.1 The report stated that the projects described in the report were provisionally programmed for 2013/14 in the AIP for 2012-17 with the exception of the report on Bridge Parapet replacements, which proposes expenditure across all five years. However, it should be noted that the current AIP will have to be reduced if the Council's savings targets for 2013/14 and beyond are to be met and these provisional timings will most likely change during the budget setting work later in the financial year.

- 3.2 Bearing in mind the prospect of reduced capital funding in future years, Roads Service will be undertaking a thorough risk-based appraisal of all bridge projects to ensure that resources are targeted on the most vulnerable structures.
- 3.3 Copies of the report have been previously circulated, or can be accessed via the Council's website at the links shown, or by contacting Committee Services.
- 3.4 The Chair will present information to the Council as to any debate or issues that the Committee considered.

4.0 Implications

- 4.1 Detailed information concerning the proposals are contained within the report already circulated to Members, including the strategic and resources implications for the Council.
- 4.2 There are no additional implications to be considered by the Council, other than those set out in the report.

For further information please contact:

Gary Robinson, Chair of Executive Committee
11 September 2012

List of Appendices
None

Background documents:
Report No. CPS-10-F
<http://www.shetland.gov.uk/coins/submissiondocuments.asp?submissionid=13593>

END



Shetland Islands Council

20 September 2012

Proposed 5 Year Housing Revenue Account Asset Investment Plan 2012-17 Report No. SIC-0920-CPS12

Chairs' Report – Executive Committee – 10 September 2012

1.0 Summary

- 1.1 The purpose of this report is to consider a recommendation from the Chair of the Executive Committee in relation to a report requiring a Council decision.
- 1.2 The Committee considered a report which set out proposals for a sustainable 5-year Housing Revenue Account (HRA) Asset Investment Plan.

2.0 Decision Required

- 2.1 The Council **RESOLVES** to adopt the recommendations from the Executive Committee, namely to
 - adopt the Council's 5-year HRA Asset Investment Plan, as set out in Appendix A, and
 - to adopt this as the Council's 5-year HRA Asset Investment Plan, subject to annual re-prioritisation in line with Council policy and the levels of funding available within the HRA for each year.

3.0 Report

- 3.1 In addition to the recommendation, the Committee resolved that the Chair and Vice-Chair of the Social Services Committee maintain pressure on the Government, with the assistance of Alastair Carmichael MP with regard to the write-off of the Housing debt.

- 3.2 Copies of the report have been previously circulated, or can be accessed via the Council's website at the links shown, or by contacting Committee Services.
- 3.3 The Chair will present information to the Council as to any debate or issues that the Committee considered.

4.0 Implications

- 4.1 Detailed information concerning the proposals are contained within the report already circulated to Members, including the strategic and resources implications for the Council.
- 4.2 There are no additional implications to be considered by the Council, other than those set out in the report.

For further information please contact:

Gary Robinson, Chair of Executive Committee
11 September 2012

List of Appendices
None

Background documents:
Report No. CPS-12-F
<http://www.shetland.gov.uk/coins/submissiondocuments.asp?submissionid=13595>

END

**Shetland Islands Council****20 September 2012****Shetland Islands Council Medium Term Financial Plan****F-043-F****Report Presented by Executive Manager – Finance****Corporate Services****1.0 Summary**

- 1.1 The purpose of this Medium Term Financial Plan is to set out the roadmap for Shetland Islands Council to achieve financial sustainability over the term of this Council and to align resources in accordance with the priorities of Members.
- 1.2 The Medium Term Financial Plan asks Members to agree the policies contained within it in order to allow the Council to develop a sustainable financial model that will secure a minimum level for reserves of £125m.

2.0 Decision Required

The Council RESOLVES to adopt the Medium Term Financial Plan (Appendix A) by:

- 2.1 Approving the principles and the underlying assumptions the plan set out in Section 2.1 to 2.13;
- 2.2 Approve the introduction of a budget carry forward scheme as set out in section 2.14 to 2.17;
- 2.3 Approve the policy of external funding as set out in section 2.18 to 2.20;
- 2.4 Approve the principle of making spend to save funding available to assist with the budget savings as set out in section 2.21 to 2.23;
- 2.5 Approve the proposed reserves policy as set out in section 5.10 to 5.14 which sets a “Tolerable Reserves Floor” of £125m;

- 2.6 Approve the continuation of the Economic Development loans scheme as set out at section 5.18;
- 2.7 Approve the proposed Asset Investment Plan as set out at section 6.8, 6.10, 6.12 and 6.13;
- 2.8 Approve the proposed creation of a £10m provision for potential HRA debt write off as set out at section 7.10;
- 2.9 Approve the policy of a sustainable revenue draw on the Housing Repairs and Renewals Reserve as set out at section 7.13;
- 2.10 Approve the earmarking of £39m within the Reserve Fund for future potential Harbour Account commitments as set out at section 8.7 to 8.10;
- 2.11 Approve the budget model as set out at section 11.1 which limits net general fund expenditure at £110.924m in 2013-14, and anticipates a limit of £104.384m in 2014-15, £102.797m in 2015-16, £102.996m in 2016-17 and £104.618m in 2017-18;
- 2.12 Approve the Target Operating Budgets for each directorate for 2013-14 and the indicative budgets for 2014-15 to 2017-18 inclusive, as set out at Section 12.9;
- 2.13 Approve the principle of seeking to maximise income from fees and charges as set out at section 12.15 to 12.18;
- 2.14 Approve to continue the freeze on Council Tax in 2013-14 and in principle for the medium term as set out in at section 12.19 to 12.22;
- 2.15 Approve the proposal to grant delegated authority to the Chief Executive to invoke contingency measures if required, as set out in section 13.6;
- 2.16 Approve the safeguarding measures as set out at section 13.7 to 13.11; and
- 2.17 Approve the policy on consultation as set out in section 14.

3.0 Detail

- 3.1 The detailed Medium Term Financial Plan has been attached as Appendix A to this report.

4.0 Implications

Strategic

4.1 Delivery On Corporate Priorities

The development of a Medium Term Financial Plan is in itself a corporate priority and is a key improvement action included within the Council's Improvement Plan. The Target Operating Budgets proposed

within the plan are consistent with the priorities in the Council's Action Plan.

- 4.2 Community /Stakeholder Issues – Refer to section 14 of the Medium Term Financial Plan which covers consultation.

- 4.3 Policy And/Or Delegated Authority
The Medium Term Financial Plan seeks to grant delegated authority to the Chief Executive to take contingency measures if they are required. More detail is included within section 13.

- 4.4 Risk Management
There are a number of assumptions within the budget model that are based on the best information available to date.

These assumptions are largely around anticipated cost pressures (section 10), income assumptions and return on reserves (section 11). In reality the actual figures will vary from the forecast figures and therefore on an annual basis the Medium Term Financial Plan will be reviewed so that assumptions can be updated.

The largest individual risk is around the return that will be made on reserves. It is likely that as a result of uncertain global financial markets, that returns will fluctuate greatly and this could result in large swings in the value of the reserves.

The budget model estimates a 2% return on reserves in each of the next 5 financial years, which in 2012-13 results in an estimated return of £3.863m. However, every 1% increase or decrease on the budgeted return on reserves will result in a variance of £1.932m against the budgeted position. As a result, it is important to take a medium term view of the level of returns that might be expected, as opposed to looking at one year in isolation.

- 4.5 Equalities, Health And Human Rights – None.

- 4.6 Environmental – None.

Resources

- 4.7 Financial
The plan sets out the resources available to the Council over the next five financial years. The plan also proposes how these resources should be allocated between revenue and capital, and between directorates, with the overall aim of ensuring the Council becomes financially sustainable and can retain a level of reserves of £125m.

- 4.8 Legal – None.

- 4.9 Human Resources – None.

- 4.10 Assets And Property – None.

5.0 Conclusions

- 5.1 This Medium Term Financial Plan sets out the action that needs to be taken in order to ensure that the Council achieves a financially sustainable budget. In doing so, it will safeguard the future service provision, ensuring that there are reserves available to sustain an enhanced level of public services in Shetland.
- 5.2 The plan follows on from the work already undertaken that resulted in the 2012-13 budget being approved on 9 February 2012, which included a savings requirement of £15.4m for the year.
- 5.3 Whilst work is progressing well towards delivering the 2012-13 budget, there are still significant challenges ahead for the public sector in Scotland. It is anticipated that it will take at least another decade before public sector spending levels reach the levels last seen in 2009-10. Given that the Scottish Government core grant forms a significant part of the funding available to Shetland Islands Council, it is not possible for the organisation to be sheltered from the wider financial challenges facing every public sector body in Scotland.
- 5.4 In addition, the Council's reserves, which have provided a significant income stream to the Council over the past 20 years, are not immune from the global financial crisis. The medium term outlook is that the returns from the reserves will be less than half the long term average, representing a material decrease in income to the Council.
- 5.5 When taking these two factors together, it is imperative that the Council delivers the recurring savings targets in this plan if it wishes to retain an acceptable level of reserves into the future.

For further information please contact:
James Gray, Executive Manager - Finance
01595 744607
james.grayt@shetland.gov.uk

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Appendix 1 – Medium Term Financial Plan 2012-2017



Shetland Islands Council

Medium Term Financial Plan

2012-2017

Securing the Best for Shetland

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Purpose

- 1.1 The purpose of this Medium Term Financial Plan (the Plan) is to set out the roadmap for Shetland Islands Council to achieve financial sustainability over the term of this Council and to align resources in accordance with the priorities of Members.
- 1.2 The Plan combines all of the resources available to the Council relating to the General Fund, Harbour Account and Housing Revenue Account for both revenue and capital expenditure.
- 1.3 This document therefore acts as a tool for financial planning; setting out the financial resources available to the Council, describing the cost pressures over the period and therefore setting out the level of expenditure that the Council can reasonably afford on an annual basis.
- 1.4 In addition, the document is an integrated budget strategy and reserves strategy for the life of the current Council, ensuring that there is a clear understanding between the level of expenditure agreed for each year and the impact that this will have on the Council's reserves.
- 1.5 It is important to recognise that the Plan is a live document and will therefore be updated annually to reflect any changes in policy and/or changes in the level of funding available to the Council.

Benefits of the Plan

- 1.6 By taking a longer term view of the Council's finances over a period of five years it allows Members to work towards delivering a sustainable budget over an extended period of time, and to understand the role that each annual budget setting exercise contributes to the overall strategy of delivering financial sustainability.
- 1.7 It improves financial planning and financial management of the Council's revenue and capital resources.
- 1.8 It allows for the clear alignment of resources to the Council's spending priorities. The priorities of the Council will feed into the allocation of revenue and capital resources for each directorate over the period of the Plan and will be focused on genuine Council priorities.
- 1.9 Ensuring that resources are aligned to priorities will ensure that the Council maximises the use of resources at its disposal.
- 1.10 Finally, this integrated Plan will help to ensure the delivery of the Council's Reserves Policy by clearly limiting expenditure to levels that comply with the policy on a Tolerable Reserves Floor.

Principles

2.1 The Plan is based on the following principles:

- The Council is committed to achieving a level of spending that is financially sustainable during the course of the current Council term and beyond, thus safeguarding the future economic viability of Shetland Islands Council.
- The Council will determine the minimum level of reserves that it wishes to maintain by refreshing the Reserves Policy.
- The total level of expenditure available for each of the next five financial years will be determined by the level of incoming resources available and the level of reserves that Members determine to be the “Tolerable Reserves Floor”.
- Members will set the level of capital expenditure to be funded from the reserves, recognising that this is at the cost of using that funding for day to day services.
- The Executive Manager – Finance will determine the level of funding required to manage significant cost pressures such as pay awards. A central allocation of funding will be set aside for cost pressures and will be allocated to directorates as required.
- These decisions will determine the level of expenditure that can be incurred on services for each of the next five years.
- Members will then be required to determine the level of resources available to each directorate for the next five years based on Council priorities.

2.2 Each directorate will know its target operating budget for 2013-14 and for the next four years.

2.3 Directors, working with their relevant Council Committee, are required to develop resourced directorate and service plans based on the target operating budgets across the Plan’s timeframe.

2.4 Members will have the opportunity to review the spending proposals and options for each directorate prior to the end of 2012, and through a process of continuous assessment be able to adjust budgets at the margins to ensure that Council priorities are properly reflected.

2.5 A budget will be presented to Council in February 2013 which sets out detailed directorate budgets for 2013-14 and indicative budgets for a further four years within the parameters in the Plan.

2.6 The Plan will subsequently be updated to reflect the approved 2013-14 budget and refreshed annually by Members during August/September each year to accommodate any shifts in Council priorities.

Assumptions

- 2.7 The starting point for setting a directorate's target operating budget for the year is the prior year budget. In practice what this means is that –
- If a directorate is under spent against its budget in a financial year, it will not be penalised by having the budget reduced by this amount in the next financial year;
 - If a directorate achieves a higher level of recurring savings than budgeted through increased efficiency, these will be applied to the following year's target, thus giving that directorate a head start in the following year and embedding a culture of continuous improvement in service delivery;
 - Similarly, if a directorate overspends against its budget, for the purposes of planning it will be assumed that the starting point for the next year was the prior year budget and not the actual spend. This will in effect mean that a directorate in this position will still be required to make the recurring savings it failed to deliver in the previous year, along with the new savings required for the new financial year.
 - All savings targets to be delivered by each directorate are required to be recurring savings.
- 2.8 The Council sets the target operating budget for each directorate for each year. Directorates are required to prepare their budgets within these parameters. Cost pressures are managed centrally and there is a presumption against growth in budgets, thereby removing the need for directorates to seek additional funding from Members during the budget setting exercise.
- 2.9 The amount of funding made available to each directorate is linked to the priorities of the Council.
- 2.10 If a cost pressure arises during the financial year, there is a presumption against providing that directorate with additional funding. In the first instance the directorate is required to identify a saving to compensate for the additional cost and report this to Council.
- 2.11 There is a presumption that there will be no growth in service cost in the medium term.
- 2.12 In order to ensure that the annual revenue budgets are delivered, contingency measures may need to be put in place.

Budget Carry Forward Scheme

- 2.13 The Plan introduces a budget carry forward scheme in order to offer an incentive to services to under spend against their budgets.
- 2.14 If a service achieves a one-off under spend in a financial year, assuming it has delivered its budget in full, it will be permitted to carry 50% of this funding into the following financial year to support approved service priorities.
- 2.15 This carried forward funding will be applied to the following year's budget as a one off item and will only be available in line with approved Council service priorities.
- 2.16 The conditions around the scheme are:
- A service will only be granted a carry forward if its directorate had delivered its budget. If a directorate was overspent no budget carry forward would be considered.
 - The under spend will be carried forward as a non-recurring budget i.e. the service would benefit in the next financial year, but it will not receive the funding in future financial years.
 - Services will be required to identify their under spends and make a request for a carry forward at the end of period 9, with a deadline of informing Finance by 15 January each year.
 - A carry forward will have to be applied to approved Council service priorities.

External Funding

- 2.17 Shetland Islands Council will seek all external funding opportunities where there is no additional financial commitment required by the Council.
- 2.18 Where an external funding opportunity is available to the Council, but it requires additional investment by the Council or an ongoing revenue commitment, the following criteria should be met in full –
- The project is consistent with the priorities of the Council; AND
 - The project meets the criteria of a Spend to Save initiative; OR
 - Savings will be identified elsewhere to ensure that the project is cost neutral to the Council.
- 2.19 If these criteria are not met the Council will recognise that by seeking the external funding it is diverting its own resources away from its priorities, and therefore will choose not to pursue the funding.

Spend to Save

- 2.20 The Council approved a Spend to Save scheme as part of the 2012-13 budget setting exercise. The purpose of the Spend to Save scheme is to provide up front funding to a service in order to effect a change that will result in recurring savings in the future.
- 2.21 One of the key principles of the scheme is that any funding awarded has to be recouped within 3 years from the savings that the scheme generates.
- 2.22 Given the need to make significant savings over the forthcoming years the Plan will make sufficient provision of Spend to Save funds to facilitate the changes necessary to deliver recurring savings.

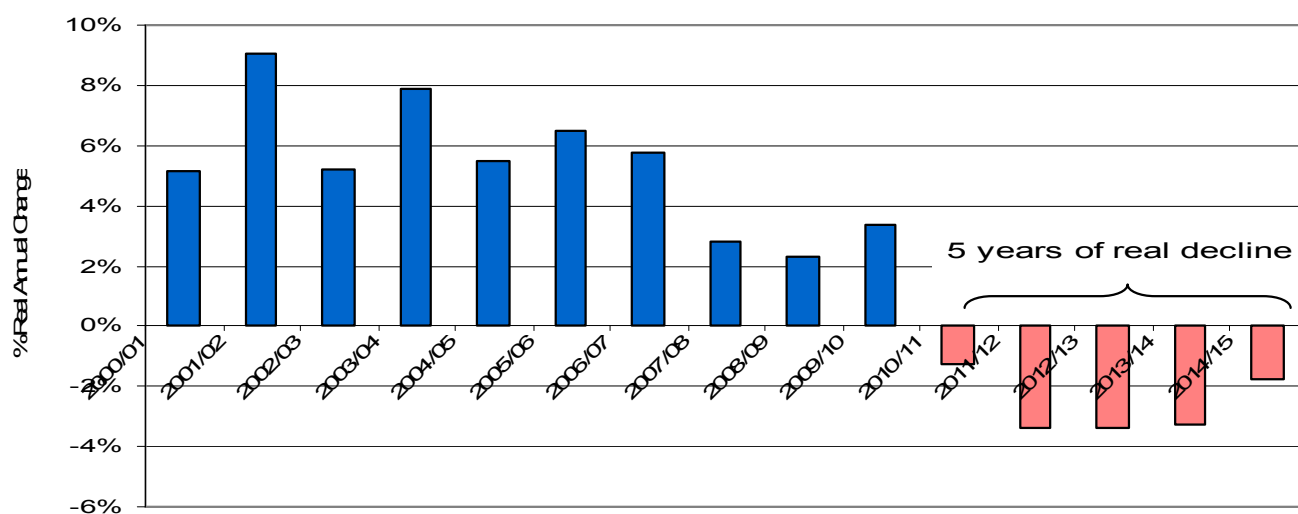
Context

- 3.1 The UK is currently in a double-dip recession with GDP (the country's economic output) at the end of June 2012 still 4.62% lower than it was at the beginning of recession in the spring of 2008. This represents the most protracted period of economic decline in over a century, surpassing even the Great Depression of the 1930s.
- 3.2 Despite the relative strength of the Shetland economy in weathering the global and UK economic situation, Shetland Islands Council's financial situation continues to be adversely affected as a result of the reducing settlement that it receives from the Scottish Government and lower returns from the financial markets on its invested reserves.
- 3.3 Based on the latest projections, it is likely that it will take longer for the global economy to recover than originally anticipated and, as a result, will probably be beyond the term of the current Council.

Scottish Government General Revenue Grant

- 3.4 The General Fund is the biggest part of the Council's activity. It represents all the revenue expenditure incurred across the Council's five directorates: Children's Services, Community Care Services, Corporate Services, Development Services and Infrastructure Services and the Chief Executive's office. General Fund net expenditure is funded from the Scottish Government General Revenue Grant, National Non-Domestic Rates Income and Council Tax. In addition, Shetland Islands Council uses surpluses on the Harbour Account, as well as draws on reserves to fund its General Fund Expenditure
- 3.5 It is important to recognise that the Scottish Government is responsible for determining the overall level of funding available to the Council from General Revenue Grant and National Non-domestic Rates. Therefore, if there were to be an increase in the level of Non-domestic Rates coming into the Council, there would be a corresponding reduction in the level of General Revenue Grant to ensure the overall funding level didn't change.
- 3.6 The table below highlights the annual change in the amount of expenditure that the Scottish Government has had to spend on public services in the period from 2000/01 to 2014/15. The current year-on-year reduction in the amount of money that the Scottish Government has to spend has a knock on effect for Shetland Islands Council.

Real Change in Scottish Government Discretionary Expenditure Limit (DEL) Expenditure



- 3.7 As part of the 2011 spending review, the Scottish Government determined the amount of funding that would be available to Local Government for the three year period; 2012-13 to 2014-15 inclusive. From this information the Scottish Government has set the amount of funding available to Shetland Islands Council to fund its General Fund expenditure.
- 3.8 The table below shows the reducing amount of revenue grant support that Shetland Islands Council will receive from the Scottish Government over the forthcoming years:

	2011-12	2012-13	2013-14	2014-15
	£m	£m	£m	£m
SIC funding allocation from Scottish Government	94.631	92.408	91.488	90.549

Returns on the Council's Reserves

- 3.9 The Council generated reserves during the 1980s and 1990s as a result of the excess income that it generated from the oil industry over the annual level of expenditure that it incurred.
- 3.10 The long term average return made on these reserves (i.e. the amount earned in interest, dividend payments and increases in the value of stocks and shares held by the SIC) over a period of 20 years has been 5.75% per year. However, given the current global financial crisis it is prudent to reduce the estimated return to 2% in the medium term. With a reserves balance of £125m, this would generate annual income of £2.5m for the Council to spend on core services.

- 3.11 The forecast reduction in income on reserves from a 5.75% to a 2% return would result in a loss of income of £5.8m per year, based on a reserves level of £193m, which was the balance at the start of the year. This represents a significant loss of income to the Council.

Surpluses Generated from the Harbour Account

- 3.12 It is anticipated that a combination of reduced income into the Harbour Account as a result of the suspension of the Schiehallion field, and an increased cost base as a result of the requirement to make additional contributions for the next four years to the Pension Fund for ex-Shetland Towage employees, will result in no surplus being generated on the Harbour Account until 2016-17.
- 3.13 Based on the best knowledge at present, it is expected that surpluses on the Harbour Account will fully recover to the 2011-12 level by 2017-18. Therefore, in the medium term, this represents a loss of income to the Council of approximately £2m to £3m per annum.

Housing Revenue Account

- 3.14 The financial position of the Housing Revenue Account is a significant challenge for the Council. This is as a result of the need to invest in the current housing stock to meet Scottish Housing Quality Standards targets by 2015 as well as managing the pressure for new build housing to meet a backdrop of having to service (i.e. pay interest) and repay a historic debt on the HRA, which stood at £40.6m on 31 March 2012.
- 3.15 There is limited scope for the HRA to manage down the debt through increases in rent charges as a result of the fact that Shetland Islands Council already charges between the third and fourth highest rents in Scotland.
- 3.16 In addition, the Scottish Government has announced its intention to scrap the Housing Support Grant, which has been made available to the Council's HRA to support it in making its interest payments on the debt. This grant was worth £0.761m in 2012-13. Without this grant, Shetland's Council House Tenants will be required to meet the full burden on interest charges on the outstanding debts through increased rents or reduced service levels.
- 3.17 There is a risk to the HRA around increases in interest rates. At the current level of debt, a 1% increase in interest rates will lead to approximately £0.4m of an increase in costs on the HRA per annum. For tenants of the Council, this would equate to an increase in rents of £4.51 per week, for every 1% increase in the interest rate.

Current Budget Gap

3.18 As a result of a widening disconnection between income received by the Council and the level of expenditure incurred by the Council over a number of years, a structural deficit has been created which resulted in expenditure being £35.6m higher than income during 2011-12. This deficit was met in full by drawing funds from the Council's reserves.

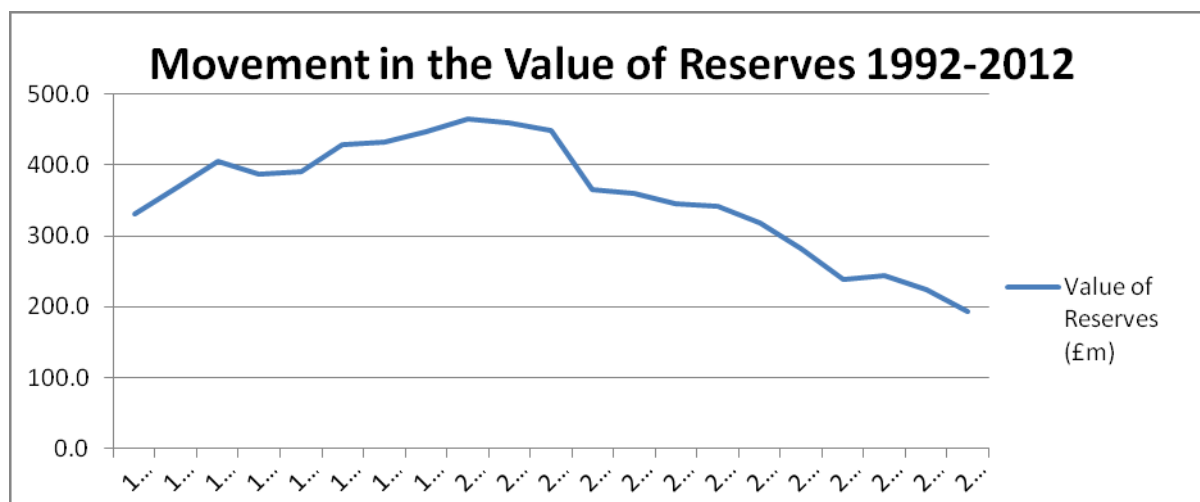
3.19 The table below shows how the total draw on reserves for the year was made up:

2011-12 Draw on Reserves	Actual Draw from/(contribution to) Reserves £m
General Fund	31.803
Housing Revenue Account	0.007
Harbour Account	(2.185)
Total Revenue Draw	29.625
Asset Investment Plan	5.945
Total Draw on Reserves in 2011-12	35.570

Reserves Levels

3.20 The result of the Council's structural budget deficit is that the reserves have decreased from a value of £465m (in today's prices) in 2000 to the current value of £193m in 2012.

3.21 The table below shows how the value of the Council's reserves (converted into today's prices) has been steadily decreasing for 12 years since 2000:



3.22 In the face of reducing income as explained above, lower returns on reserves and a current structural deficit of £35.6m per year, the Council's reserves will be zero by 2016/17 if no corrective action is taken.

Council Priorities

- 4.1 Input on extending the horizons of the Councils current short term service plans (one / two years) to medium and longer term service plans (two / five years) has come from a combination of analysis of Members manifestos, interviews with Members and office bearers, the work of management and directorates and the principles of good governance and best value.
- 4.2 The core themes that have emerged are:
- ***A soundly led and managed Council, living within its means;***
 - ***Focused on delivering essential services efficiently and effectively, particularly those critical services for children, the elderly and transport;***
 - ***While being mindful of how change could affect the vulnerable and disadvantage;***
 - ***Conscious that a healthy economy and strong communities underpin Shetland's long term viability;***
 - ***Awareness that we must all work together across the Council and with all our partners to achieve the best results.***
- 4.3 To lead the remaining stage of matching spending with income, guideline allocations of the overall "Council Target Budget" for each directorate need to be established. Work on historic and current spending patterns, factoring in savings reviews and assessments already underway, looking at typical spending patterns across other Councils, and taking account of Members' priorities expressed in manifestos, meetings and interviews have all been done.
- 4.4 It is proposed that the core Council services of Community Care, Infrastructure and Children's Services should be relatively prioritised as far as that is possible. This is a reflection on the Council's statutory obligations in these areas, the fundamental scale and cost of these services and the Council's political commitment to sustain key front-line services as a priority.
- 4.5 The proportions of the available budget allocated to Development, Corporate and Executive Services are proposed to decrease to allow as much spend as possible to be directed to the areas above.
- 4.6 These "Directorate Target Budgets" are set out in Section 12. The approved figures will be the guideline ceilings that directorates will be required to plan against to show how services can be reconfigured to sustainably deliver the most effective and efficient outcomes possible in the medium and long term i.e. covering the next two to five years.

- 4.7 These service plans will be developed through the planning and budgeting cycle we are about to start, between now and December 2012, and formally reported to Council in February 2013.
- 4.8 These service plans will describe the proposals and options for service delivery within the “Directorate Target Budgets” and will also provide sufficient information for the Council to make any further adjustments between Directorates or Service areas. That will require information to be provided within the service plans about what higher and lower allocations would deliver (perhaps 5% each way).
- 4.9 Any such adjustment cannot however change the overall financial envelope; it could only be a movement of budget from one Directorate/Service to another. Any future movement between priorities would have to be done on the same basis.
- 4.10 These service plans will need to set out how the Council (and each Directorate / Service):
- Continue to meet any legal obligations (do what we must do)
 - Seek to sustain, and if possible improve, key outcomes (key services)
 - Identify and effectively manage risks (be safe and secure)
- 4.11 All service plans will be required to cover each of these areas; this work will need to be delivered on the timetable set out below:
- Medium Term Financial Strategy Agreed – 20 September 2012
 - Directorates’ Target Budgets for 2013- 2017 set – 20 September 2012
 - Directorate / Service Priority Planning, Detailed Budget Planning and Strategic Risk Analysis – between September/November 2012
 - Resourced and Risk Assessed Directorate / Service Plans for 2013 – 2017 communicated to Members – November/December 2012
 - Resourced Directorate / Service Plans reported to Committees – January 2013
 - Resourced Directorate / Service Plans and detailed 2013-14 Council budget reported to Council – February 2013

Reserves Policy

- 5.1 The Council has had a long-standing Reserves Policy to have a “floor”. This represents the minimum value that the Council is willing to accept on its Reserves. The Council’s policy has been to set this at £250m. It was recognised in 2011 that this Policy was set to be breached and therefore this was amended to build the reserves back up to £250m within 10 years (by 2021-22).
- 5.2 There are two broad measures of the level of reserves held by the Council, one is an accounting measure and one is a cash measure. The table below shows the accounting value of the Council’s reserves, as documented in the unaudited Statement of Accounts 2011-12:

Reserves	Opening Balance 1 April 2011 £m	Closing Balance 31 March 2012 £m
Capital Fund	(108.404)	(100.542)
Capital Efficiency/Spend to Save Reserve	(5.000)	(9.096)
Reserve Fund	(61.621)	(57.364)
Repairs & Renewals Fund	(62.900)	(51.576)
General Fund Balance	(3.000)	(3.000)
Revenue Efficiency/Spend to Save Reserve	(0.500)	(0.510)
Potential Contingent Liabilities	(11.400)	(0.849)
Discretionary Reserves	(252.825)	(222.937)
Marine Superannuation Fund	(2.582)	(2.021)
Pilot Boat Renewal Fund	(0.942)	(0.960)
Housing Repairs & Renewals Fund	(12.035)	(12.259)
Quarry Repairs & Renewals Fund	(0.150)	(0.153)
Insurance Fund	(0.222)	(0.293)
Council Tax Second Homes Receipts	0.000	(0.511)
Hansel Funds	(0.090)	(0.104)
Central Energy Efficiency Fund	(0.052)	(0.043)
Ring Fenced Reserves	(16.073)	(16.344)
TOTAL	(268.898)	(239.281)

- 5.3 The cash measure of the reserves is the value of money that the Council has invested with Fund Managers. This stood at £193.2m at 31 March 2012. The significant difference between the two figures is largely as a result of the accounting figures including money that the Council has already borrowed from itself for Council House building and the purchase of tugs for the Harbour Account.
- 5.4 Given the severity of the financial situation the Plan will focus on the cash measure of reserves as only cash backed reserves can be used to keep the Council solvent.
- 5.5 Under either measure the long-standing policy of £250 million has been breached and, given the scale of the structural deficit that the Council is in, there will be a requirement for

further large draws on reserves in the short term. It is therefore unrealistic to believe that the Council's reserves could reach a level of £250m (measured on a cash basis) by 2021-22.

The Value of the Reserves to the Council

- 5.6 The table below provides an indication of the level of annual returns that would be earned on various reserve floor levels. The medium term annual income level is based on a 2% return and the long term estimated annual income level is based on a 5.75% return, which is the historical average.

Level of Reserves £	Medium Term Estimated Annual Return on Reserves £	Long Term Estimated Annual Return on Reserves £
10,000,000	200,000	575,000
20,000,000	400,000	1,150,000
30,000,000	600,000	1,725,000
40,000,000	800,000	2,300,000
50,000,000	1,000,000	2,875,000
60,000,000	1,200,000	3,450,000
70,000,000	1,400,000	4,025,000
80,000,000	1,600,000	4,600,000
90,000,000	1,800,000	5,175,000
100,000,000	2,000,000	5,750,000
110,000,000	2,200,000	6,325,000
120,000,000	2,400,000	6,900,000
130,000,000	2,600,000	7,475,000
140,000,000	2,800,000	8,050,000
150,000,000	3,000,000	8,625,000

- 5.7 The table demonstrates the significance of the reserves for generating an income stream for the Council to use on providing services, particularly in the longer term when financial markets should recover.
- 5.8 For example, in the long term, a minimum level of reserves of £125m, would generate income of £7.2m per annum which could be used to fund services.
- 5.9 If the Council chooses a policy to fully utilise the reserves, this will cease to be an income stream for the Council.

Medium Term Financial Plan Reserves Policy

- 5.10 It is important to recognise that the "Tolerable Reserves Floor" set by the Council does not impact on the level of cuts required to deliver a balanced budget. Even if all reserves are utilised for the provision of services, the Council would then still have to cut expenditure to match its incoming resources in order to meet its statutory duty of setting a balanced budget.

- 5.11 Therefore the level at which Members decide to set the Tolerable Reserves Floor will only determine the speed of the cuts that are necessary to deliver a balanced budget and preserve a certain level of reserves for the future.
- 5.12 The Plan sets a Tolerable Reserves Floor of **£125m**, measured on a cash basis. This means that Shetland Islands Council will ensure that it does not let its externally invested reserves drop below this value.
- 5.13 The Plan, when the reserves stabilise at £125m, is that the Council will only **maintain this level** as opposed to seeking to build the reserves back up.
- 5.14 However, if the Council was to receive an unbudgeted windfall, the default position would be that it was used to increase the level of reserves.

Rationale for Proposed Policy

- 5.15 The Tolerable Reserves Floor of £125m balances the Council's desire to retain as high a possible level of reserves as can be managed, whilst recognising the need to ensure that the budget gap is managed down in a realistic timescale.
- 5.16 It would prove to be extremely challenging to aim for a higher Tolerable Reserves Floor due to the speed required to make the necessary adjustments. Conversely, to take too long at addressing the budget gap would lead to the reserves dropping to a level where they are unable to generate the levels of return required to sustain significant additional expenditure on Council services.
- 5.17 In the medium term, the financial outlook remains challenging, with real increases in grant income from the Scottish Government looking unlikely during the period of this Council. Therefore in order to buffer this lost income, the Council will utilise all returns generated on its reserves in order to sustain as much expenditure as possible. It is for this reason that the Plan sets the sustaining reserves at a level of £125m in the medium term as opposed to a strategy to grow them, by not using the income that they generate.

Investing Council reserves in Economic Development loans

- 5.18 The Plan is to continue to invest up to £3m per annum in local businesses. However it must be demonstrated that:
- The loan will generate the Council a rate of return at least equal to the markets; and
 - Due diligence work has been undertaken to ensure that any loan granted is at an acceptable risk level to the Council.

Asset Investment Plan

- 6.1 The Asset Investment Plan sets out the capital expenditure that the Council plans to incur. Capital expenditure relates to spending on significant repairs and maintenance work where the result is to extend the life of a Council asset, or spending on the creation or purchase of a new asset.
- 6.2 Shetland Islands Council receives a capital grant from the Scottish Government each year to spend exclusively on capital, and also receives money from the sale of Council assets known as capital receipts. In addition, the Council has a policy to spend up to £5.6m per annum from reserves to fund the Asset Investment Plan. In total, this provides funding of roughly £10m to £11m per year to spend on capital expenditure.
- 6.3 The existing policy to draw up to £5.6m per annum from reserves to fund capital expenditure was based on the premise that this was a sustainable draw (i.e. could happen every year without negatively impacting upon the value of the reserve). However, given the current anticipated returns on the reserves, this figure is no longer sustainable.
- 6.4 The table below sets out the Asset Investment Plan as it currently exists, showing that the anticipated draw on reserves for 2012-13 is £5.1m.

	2012-13	2013-14	2014-15	2015-16	2016-17
Income					
Government Capital Grant	4,795,000	4,457,000	6,382,000	5,000,000	5,000,000
Projected Capital receipts	500,000	500,000	500,000	500,000	500,000
TOTAL	5,295,000	4,957,000	6,882,000	5,500,000	5,500,000
Expenditure					
Contractually Committed Expenditure	6,444,247	1,030,000	0	0	0
Maintenance Programme	3,394,350	5,162,000	5,429,000	4,981,000	4,833,000
New Developments (Growth)	510,000	1,790,000	4,345,000	7,356,006	6,321,328
TOTAL	10,348,597	7,982,000	9,774,000	12,337,006	11,154,328
Budget Gap (ie Draw on Reserves)	5,053,597	3,025,000	2,892,000	6,837,006	5,654,328

- 6.5 The table also demonstrates that if the Council adopted a policy of focussing on maintenance only from 2013-14, with a little re-profiling of the programme, it could do so within the existing income that the Council receives from Scottish Government and the sale of assets.
- 6.6 In essence, the table shows that the draw on reserves for capital expenditure is mainly used to fund the creation of new assets. If the Council adopted a policy of only maintaining existing assets, using only core funding from the Scottish Government and capital receipts, it would save a potential draw on reserves of up to £5.6m per annum.

6.7 This reduction in the capital draw on reserves could be used to offset the level of savings required from revenue, which funds the day to day services.

6.8 The following Asset Investment policy is set in the Plan –

- All capital expenditure to be focussed on the maintenance of existing assets rather than the creation/purchase of new assets, (with the exception of a new Anderson High School and high-speed broadband).
- To only use income from the Scottish Government, other capital grants and capital receipts to fund the Asset Investment Plan.
- To only make a draw on reserves for specific capital projects that are consistent with the priorities of the Council, i.e. a new Anderson High School and high-speed broadband.
- Before making a draw on reserves for capital projects, a full investment appraisal process should be completed considering whether use of reserves or borrowing provides the Council with the best value for money option.
- Focus on selling existing assets that are surplus to requirements to free up resources to fund new capital projects.

6.9 By adopting these policies the Council will reduce the draw on reserves by £5.6m annually which will result in a reduction of cuts to Council revenue services by a corresponding amount.

Harbour Account capital expenditure

6.10 Any capital expenditure incurred by the Harbour Account will be met from Capital Financed from Current Revenue (CFCR) on the revenue Harbour Account or capital receipts generated from the sale of Harbour Account assets. This is because the Harbour Account cannot access the Scottish Government capital grant, so any capital expenditure funded in another way would mean an unaffordable draw on reserves.

Housing Revenue Account capital expenditure

6.11 The Housing Revenue Account currently has debt of approximately £40.6m which is unsustainably high. With the abolition of Housing Support Grant, council house rents will be required to service and repay the debt. If interest rates rise this will result in council house rents having to increase or standards of maintenance decreasing.

6.12 The Plan is to stop new debt being taken out by the Housing Revenue Account to fund capital expenditure projects, whilst a solution is found to the current unsustainable level of debt carried by the HRA.

6.13 The Plan is to manage down the level of debt to a sustainable level. Work is currently underway to model the HRA over a 30 year period in order to assess what level of debt is

affordable. Once this has been established, a report will be presented to Council proposing steps to address this issue.

Funding for a new Anderson High School

- 6.14 If Shetland Islands Council is successful in securing government funding for a new Anderson High School then the Council will be required to make a capital contribution to this project.
- 6.15 At present a figure of £12m has been set aside in the reserves for this cost. However, if the time comes to make this contribution, Members will be asked to commit to the principle of considering external borrowing as a means to fund the project, along with the use of reserves.
- 6.16 This would involve an assessment as to which option presents best value for the Council.

Housing Revenue Account

- 7.1 The 22 elected Members of Shetland Islands Council are collectively the largest landlord in Shetland, responsible for the letting and management of 1,772 properties as at 31 March 2012.
- 7.2 Housing was identified as a key priority in the majority of Members' election manifestos and forms a key constituent part of the Plan.

Accounting treatment

- 7.3 The Housing Revenue Account (HRA) is a statutory account that is completely separate from the General Fund. As such, it has to be financially self-sustaining as it is not possible for the General Fund to cross subsidise council house rents. All expenditure is funded by housing rents.
- 7.4 In addition, the HRA can only access its own ring-fenced reserve, which had a balance of £12.259m at 31 March 2012.
- 7.5 As a result of the limitations on the HRA, it has had to borrow for a significant amount of its capital expenditure which has led to it currently owing the General Fund £40.6m at 31 March 2012. The HRA borrowing from another part of the Council is known as internal borrowing.

Housing Support Grant and Sustainability

- 7.6 The Scottish Government has announced its intention to scrap the Housing Support Grant, which has been made available to the Council's HRA to support it in making its interest payments on the debt. This grant was worth £0.9m in 2011-12. Without this grant, Shetland's council house tenants will be required to meet the full burden on interest charges on the outstanding debts through increased rents or reduced service levels.
- 7.7 As a result of the level of debt and the lack of financial support from the Scottish Government the HRA is currently unsustainable.
- 7.8 Work is still required to negotiate with the Scottish Government for transitional arrangements to taper the impact of the decision to scrap Housing Support Grant.

HRA debt policy

- 7.9 As discussed in Section 6, the Plan proposes a policy of not taking out any new borrowing against the HRA until the current debt issue has been addressed. Work is currently underway to model the HRA over a 30 year period in order to assess what level of debt is affordable.
- 7.10 In the meantime, the Plan is to create a £10m provision for the potential write off of an element of the HRA debt. This does not represent a real cost to the Council. However, it

represents the Council's commitment to addressing the debt issue and provides more options regarding reaching an agreement with national government, with a potential for a matched reduction in the debt between the Council and government.

- 7.11 If in the future, the Council decided to write off an element of the HRA debt, it would represent an opportunity cost in the sense that a future income stream of interest and debt repayment would be lost.

Revenue spending

- 7.12 The HRA has one reserve (the Housing Repairs & Renewals Fund), which provides an income stream to the HRA by the returns it makes on the markets. Given the current debt issue facing the HRA it would be prudent to ensure that the HRA reserve is maintained both as a source of generating income, but also as a potential bargaining tool regarding the repayment of debt.
- 7.13 The Plan sets a policy of budgeting for no more than a sustainable draw on the Housing Repairs and Renewals Fund in the medium term. In effect, this means drawing no more than 2% of the balance from the reserve in any given financial year.

Harbour Account

- 8.1 The Harbour Account primarily represents the activity that takes place at Sella Ness, with the levels of activity dependant on the oil terminal at Sullom Voe. All surpluses generated on the Harbour Account are transferred to the Council's Reserve Fund.
- 8.2 The first priority of the accumulated surpluses in the Reserve Fund is to sustain the Harbour Account. The Zetland County Council Act 1974 states the purpose of the Fund as –
1. To cover any losses on the Harbour Account
 2. To meet any claim or demand against the Council arising from the Harbour Account
 3. To meet any capital expenditure required to maintain the Harbour Account
 4. To meet any repairs and maintenance costs on the Harbour
- 8.3 The final provision in the Act is for the Reserve Fund to be used “for any other purpose which in the opinion of the Council is solely in the interests of the county or its inhabitants”.

Anticipated surpluses on the Harbour Account in the medium term

- 8.4 There are two main factors that will impact adversely over the level of surplus generated by the Harbour Account over the next 4 years:
- **Reduced income from the suspension of the Schiehallion Oil Field** – Approximately 40% of the Harbour Account's income comes from Schiehallion throughput. It is anticipated that this income will be lost to the Harbour Account until 2016-17.
 - **Pensions Liability** – The Harbour Account has a pensions funding shortfall of approximately £8m as a result of the transfer of Shetland Towage employees to the Council. It had been agreed by the previous Council that this would be funded by a transfer from the Harbour Account to the Pension Fund of approximately £2m per annum for the next 4 financial years.
- 8.5 As a result of these two factors, the Plan is budgeting for the Harbour Account to make no surplus in each of the next 3 financial years, with a return to surpluses commencing from 2016-17
- 8.6 Members should note that there is a risk that the Harbour Account could operate in deficit at some point over the next 3 years, which would require to be funded from the Reserve Fund.

Reserve Fund Commitments

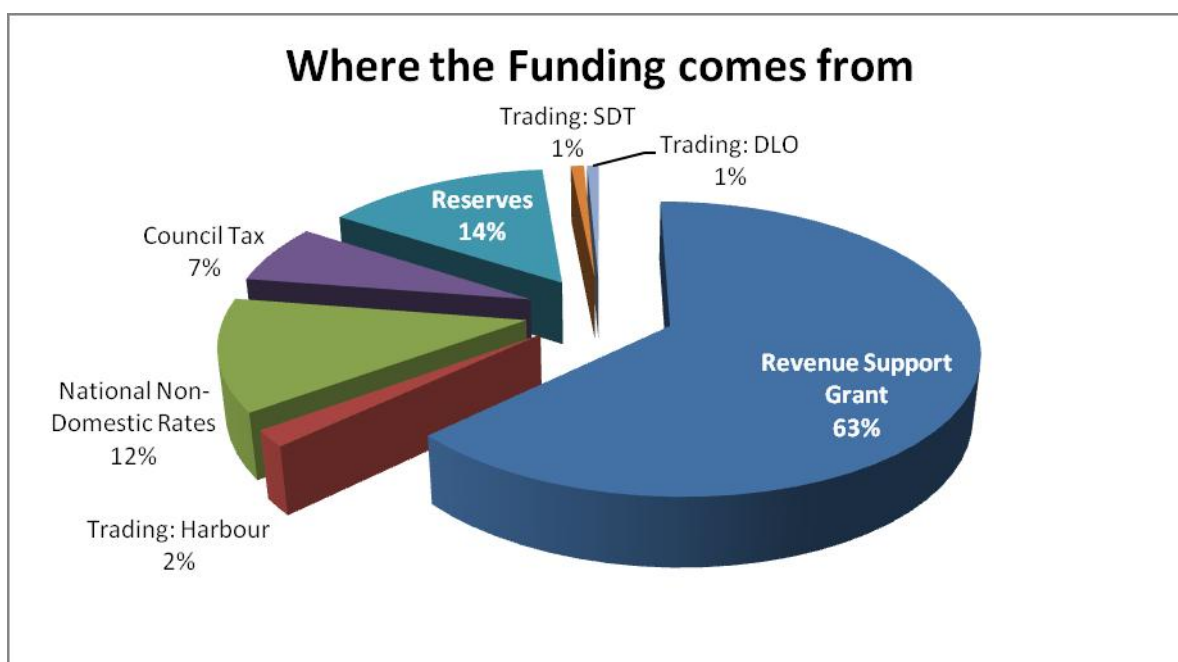
- 8.7 The Reserve Fund balance was £ 57.364m at 31 March 2012 and as stated above, its first use is to sustain the Harbour Account.
- 8.8 Work is underway to understand the requirements that the Harbour Account will have on the Reserve Fund in the future. Early discussions have estimated the following:

Backlog maintenance costs	£1m	There is a build up of backlog maintenance work which has yet to be completed, and it is estimated that £1m still remains to be undertaken. The reason for this build up was that the Harbour had slowed down its investment as it anticipated closure in 2000, but as a result of new oil coming on stream, its life has been extended, but this gave rise to a backlog in maintenance.
Capital expenditure	£13m	It is now estimated that the Harbour will remain open for another 25 years. This means that the Council will be required to invest in capital infrastructure during this period to extend the life of the Harbour. This expenditure will largely be incurred on the replacement of Jetties.
Decommissioning costs c.2037	£25m	The Council owns the Harbour at Sella Ness and has a legal requirement to ensure that the site is returned to its original condition once the Harbour closes. This will involve the removal of all jetties and man-made structures at the sight. This is estimated to cost in the region of £13m. In addition to this, it is estimated that the Harbour will operate at a loss of approximately £12m over its final 3 years, as the Council will have fixed costs for maintaining the site and employing staff, whilst at the same time the income stream from oil tanker arrivals will have dried up significantly.
TOTAL	£39m	This represents the total provision that may be required in order to operate the Harbour Account until its closure, which is anticipated to be in the late 2030s.

- 8.9 It has yet to be determined whether the Harbour Account will actually require £39m from the Reserve Fund in future. However, until a final and more certain figure is determined it would be prudent to earmark an amount of £39m within the Reserve Fund for use by the Harbour Account to ensure that it is not utilised on day-to-day Council services.
- 8.10 As a result the Plan earmarks £39m within the Reserve Fund, as set out above, to provide for potential future spending commitments on the Harbour Account.

Resources

- 9.1 At present, Shetland Islands Council's general fund receives approximately 75% of its funding from the Scottish Government. This is made up of the core General Revenue Grant and the element of National Non-Domestic Rates that the Scottish Government grants to the Council.
- 9.2 The pie chart below shows where the funding comes from for the general fund budgeted expenditure in 2012-13:



- 9.3 The chart highlights the extent to which the General Fund requires reserves to make up the funding package. In order to achieve a fully sustainable financial position, reserves should only make up a maximum of 2.5% of the funding package.

Estimated future resources available to the Council

- 9.4 The table below shows the estimated future resources available to the Council over the period of the Plan:

Source of Income	2012-13	2013-14	2014-15	2015-16	2016-17	2017-18
Scottish Government Core Revenue grant	-75,650	-69,911	-67,440	-66,940	-66,440	-65,940
Non domestic rates	-15,035	-16,177	-17,699	-17,699	-17,699	-17,699
Council Tax	-8,036	-8,529	-8,614	-8,700	-8,787	-8,875
Total Gas Plant Income	0	0	0	0	-2,057	-4,517
Trading (inc Harbour Account)	-4,069	-500	0	0	-1,000	-3,000
Total funding	-102,790	-95,117	-93,753	-93,339	-95,983	-100,031

- 9.5 A number of assumptions have been made around the resources available to the Council. These are set out below –

- The Scottish Government core revenue grant has been set up to and including 2014-15. The assumption made in the following years is that underlying funding will remain fixed in cash terms, reflecting the challenging economic outlook. However, because of the diminishing level of notional loan charge support available to the Council, the overall result is that the core grant will reduce by approximately £0.5m year on year after 2014-15.
- The level of National Non-Domestic Rate income has been set by the Scottish Government up to and including 2014-15. The assumption in this model is that this income stream will remain at the same level in subsequent years on the basis that the economic outlook will remain challenging throughout this decade.
- As a result of the high collection rates for Council Tax in Shetland, the model budgets for a higher level of Council Tax income in 2013-14, reflecting the levels collected in previous years. Beyond 2013-14, it is expected that Council Tax income will rise by 1% per annum based on the assumption that the Council will continue with the national freeze, but due to natural increases in the property base of 1% per year income from this source will increase by that amount.
- Based on the latest understanding of when the Total plant will open, it is anticipated that this will provide an income stream to the Council from 2016-17. The level of income budgeted in the model reflects our best estimation of throughput and price of gas at that time. It should be noted that as a result of this, there is a certain level of volatility as to when this income will start to flow into the Council, and the exact amount that it might be.
- It is anticipated that the Harbour Account will fail to make a surplus in 2013-14, 2014-15 and 2015-16 as a result of falling income levels and increased costs. However, the model budgets for a recovery in 2016-17, with a surplus of £1m, rising to £3m in 2017-18 once the towage pension liability has been paid off.

Business Rates Incentivisation Scheme

- 9.6 The Scottish Government has created a Business Rates Incentivisation Scheme which provides an opportunity to the Council to maximise its National Non-Domestic Rates income stream.
- 9.7 The way in which the scheme works is that the Scottish Government sets an annual target for the level of Business Rates (National Non-Domestic Rates) that Shetland Islands Council should collect during the year. If the Council collects more than its target, it is able to keep 50% of the additional income, with the other 50% going to the Scottish Government. Therefore, there is an incentive to the Council to generate economic development to increase the tax base. Opportunities should be sought to progress this scheme.

Cost Pressures

- 10.1 Despite the drive to bring down the overall level of expenditure in order to work towards achieving a financially sustainable position, there will be cost pressures each year that put upward pressure on the levels of expenditure incurred by the Council.
- 10.2 It is anticipated that there will be significant cost pressures in 2013-14, with an allowance of £3.095m being budgeted to account for these.
- 10.3 The table below sets out the recurring cost pressures that have been considered for the 2013-14 budget, and the level of provision made for each:

Cost Pressure	Quant-ification	Description	Allowance for Cost Pressure in 2013-14 budget (£)
Pay Award	1%	It is anticipated that there will be a pay award of 1% in 2013-14.	£951,000
Pension Auto-enrolment	10% opt out	A change in legislation means that all staff members will automatically be enrolled in one of the Council's pension schemes as opposed to actively having to seek membership. Staff will in future have to actively seek to opt out. As a result of this it is anticipated that only 10% will opt out, pushing up costs, as currently a significant number of part time/casual workers are not members of a pension scheme.	£1,673,000
Demographic Pressures	2.6%	Based on the rate of Shetland's ageing population, it is anticipated that there will be extra demand on Community Care resources.	£260,000
Utilities	6%	Anticipated level of increase during 2013-14.	£211,000
Council Tax Benefit Administration	£23m nationally	It is not yet known what the formula will be for dividing this across all Scottish local authorities, but it is not considered significant. Therefore no allowance has been created.	£0
General Inflation	2%-3%	It is anticipated that inflation will fluctuate between 2% and 3% in 2013-14. No allowance has been made, as corporate procurement efficiencies should off-set this pressure.	£0
Fuel Inflation	0%	There is no evidence to suggest that fuel prices, which are already at a historically high level, will continue to increase during 2013-14.	£0
Contract Inflation	0%	The most significant element relates to the bus contracts, but given new contracts will be in place for 2013-14, it is not anticipated that there will be significant contract inflation during the year. Any other contract inflation will have to be managed within existing budgets.	£0
TOTAL			£3,095,000

- 10.4 An allowance of 2% has been made for budget pressures in all future years covered by the Plan. This reflects the fact that the largest cost to the Council is salaries, and it is anticipated that there will be only modest pay awards in the medium term. In addition, general inflation is forecast to settle at around 2% in the medium term.
- 10.5 However, it is likely that there will be specific budget pressures in future years, and as a result, these assumptions will be updated on an annual basis.
- 10.6 The known potential future budget pressures for specific items are as follows:
- **Welfare Reform** – There are two potential pressures which could arise after the introduction of the new arrangements in Autumn 2013. The first is that there may be additional administrative burdens placed on the Council with regards to the implementation, and ongoing support of, the new arrangements. The second potential budget pressure is the risk of falling housing rents income to the HRA as a result of the housing element of benefits being paid directly to claimants instead of to the Council.
 - **Severance costs** – As a result of the likely reduction in the size of the Council’s workforce over the forthcoming years, it is anticipated that this will result in an increase in one-off severance payments and will also increase future pension liabilities for the Council.
 - **Borrowing** – If the Council finds it more cost effective to fund capital expenditure by incurring external debt, this may give rise to an additional cost pressures on the relevant revenue service budget in the form of borrowing costs.
- 10.7 It is not yet possible to quantify the costs associated with the above due to a number of uncertainties, but as more information is known, these pressures will be costed in future refreshes of the Plan.

Budget Modelling

11.1 Based on the information gathered from the Medium Term Financial Planning process the following budget model has been produced:

Description	2012-13	2013-14	2014-15	2015-16	2016-17	2017-18
	£000s	£000s	£000s	£000s	£000s	£000s
General Fund expenditure before savings	140,828	121,793	113,693	107,984	107,810	108,134
Savings/Gap to be met by directorates	-15,351	-11,195	-7,871	-2,223	-1,720	0
Contingency for savings slippage	3,000	2,799	1,968	556	430	0
Net Recharges out (to other funds - HRA etc)	-5,568	-5,568	-5,568	-5,568	-5,568	-5,568
Budget pressures	0	3,095	2,163	2,048	2,045	2,051
Total General Fund expenditure	122,909	110,924	104,384	102,797	102,996	104,618
Scottish Government Core Revenue grant	-75,650	-69,911	-67,440	-66,940	-66,440	-65,940
Non domestic rates	-15,035	-16,177	-17,699	-17,699	-17,699	-17,699
Council Tax	-8,036	-8,529	-8,614	-8,700	-8,787	-8,875
Total Gas Plant Income	0	0	0	0	-2,057	-4,517
Trading (inc Harbour Account)	-4,069	-500	0	0	-1,000	-3,000
Total funding	-102,790	-95,117	-93,753	-93,339	-95,983	-100,031
Budget gap on General Fund (Total expenditure less total funding)	20,119	15,807	10,631	9,458	7,013	4,586
Opening Reserves Balance 1 April	193,170	163,437	151,149	144,042	139,215	125,236
Add: Return on Investment (interest, dividends, increase in share price etc)	3,863	3,269	3,023	2,881	2,784	2,505
Add: Repayment of Internal Borrowing (HRA and Harbour)	3,327	3,000	3,000	3,000	3,000	3,000
Fund Manager fees	-753	-637	-590	-563	-545	-491
Spend to Save	-1,372	-2,000	-1,750	-500	0	0
One-off Budget Adjustments 2012-13	-9,628	0	0	0	0	0
Less: Capital draw on reserves	-5,054	0	0	0	-12,000	0
Less: Budget gap required to be funded from reserves (as per above)	-20,119	-15,807	-10,631	-9,458	-7,013	-4,586
Closing Reserves Balance at 31 March	163,434	151,259	144,313	139,679	125,915	126,356
In Year Draw on Reserves	-36,923	-18,557	-13,131	-10,708	-19,763	-5,336

- 11.2 The purpose of the model is to set out the level of expenditure that is affordable each year, based on the total funding available and a desire to ensure that the Council's reserves stabilise at £125m.

Assumptions

- 11.3 The following assumptions have been made in the budget model:

Total General Fund expenditure

- A sum of £3.864m will be removed from general fund expenditure and the same sum removed from the Scottish Government core revenue grant from 2013-14 to reflect the fact that Police and Fire services will be operated at a national level.
- The starting point for each year will be the prior year start point, less savings and then budget pressures added on. For example, the start point for 2014-15 is calculated as follows-

Description	Amount £m
2013-14 General Fund expenditure before savings	121.793
Less: 2013-14 savings	-11.195
Add: 2013-14 Budget pressures	3.095
2014-15 General Fund expenditure before savings	113.693

- An in-year contingency for slippage in the delivery of savings has been included for each year where there is a savings requirement. For the current 2012-13 financial year, the figure has been set at £3m based on a quarter 1 projection of the overall shortfall in the delivery of savings. In subsequent years, an allowance of 25% of the overall savings target has been included. It should be noted that this assumes that any savings shortfall in a given financial year will be made up in full in the following financial year ie it is purely a timing difference.
- An allowance for budget pressures has been built into the model. In 2013-14 this figure has been calculated as £3.095m. In subsequent years, this has been calculated at 2% of the in-year General Fund expenditure before savings figure. Further details of these calculations have been discussed in section 10 of the Plan.
- Any additional budget pressures, such as general inflation will be required to be met from service budgets.

- Net recharges out to remain constant based on an expectation that there will still be the same level of service delivered to the HRA and Harbour Account from the General Fund.
- An assumption has been made that the £3m of savings arising from the implementation of the Blueprint for Education will not be delivered in 2013-14 as previously indicated, and as a result, the savings target has been reduced from £14.195m to £11.195m. Instead the savings arising from the Blueprint for Education have been profiled to be delivered over 2014-15, 2015-16 and 2016-17 as set out in the Blueprint report, and the total savings delivered will now total £3.558m.
- If the plan is delivered, actual spending levels on the general fund will rise in the 2016-17 budget and there will be no requirement to deliver any savings in the final budget set by this Council in February 2017 assuming the external funding continues at a level indicated in paragraph 11.1.

Total funding

- The Scottish Government core revenue grant has been set up to and including 2014-15. The assumption made in the following years is that underlying funding will remain fixed in cash terms, reflecting the challenging economic outlook. However, because of the diminishing level of notional loan charge support available to the Council, the overall result is that the core grant will reduce by approximately £0.5m year on year after 2014-15.
- The level of national non-domestic rate income has been set by the Scottish Government up to and including 2014-15. The assumption in this model is that this income stream will remain at the same level in subsequent years on the basis that the economic outlook will remain challenging throughout this decade.
- As a result of the high collection rates for Council Tax in Shetland, the model budgets for a higher level of Council Tax income in 2013-14, reflecting the levels collected in previous years. Beyond 2013-14, it is expected that Council Tax income will rise by 1% per annum based on the assumption that the Council will continue with the national freeze, but due to natural increases in the property base of 1% per year income from this source will increase by that amount.
- Based on the latest understanding of when the Total plant will open, it is anticipated that this will provide an income stream to the Council from 2016-17. The level of income budgeted in the model reflects our best estimation of throughput and price of gas at that time. It should be noted that, as a result of this, there is a certain level of volatility as to when this income will start to flow into the Council, and the exact amount that it might be.

- It is anticipated that the Harbour Account will fail to make a surplus in 2013-14, 2014-15 and 2015-16 as a result of falling income levels and increased costs. However, the model budgets for a recovery in 2016-17, with a surplus of £1m, rising to £3m in 2017-18 once the towage pension liability has been paid off.

Reserves

- The budget model builds in a return on investments of 2% for each financial year covered in the Plan. The long term average return over the past 20 years has been 5.75% but given the global financial crisis, it is prudent to revise this figure down in the medium term. It should be noted that there is a high level of volatility around investment returns, so the actual figure could be considerably higher, or lower in a given year.
- The model budgets for the repayment of internal borrowing from the HRA and Harbour Account, with no new borrowing being granted. If this materialises, then the reserves will be boosted by approximately £3m per year in the medium term. In order to minimise the level of cuts required in these challenging economic times, the model utilises the repayment of debt to fund General Fund services over the medium term.
- After 2012-13, the only draw on reserves budgeted for capital spend is a figure of £12m for a new Anderson High School. It is assumed that apart from this item, all capital expenditure will be funded from core government capital grant and the receipts from the sale of assets.

Summary

- 11.4 In summary, over the course of the Plan it is anticipated that the reserves will generate income of approximately £36m and the total draws on reserves will total £104m, meaning a net reduction of £68m from £193m to £125m.
- 11.5 If this Plan is delivered, the Council will retain a level of reserves of £125m and will have achieved a financially sustainable position.

Addressing the Budget Gap

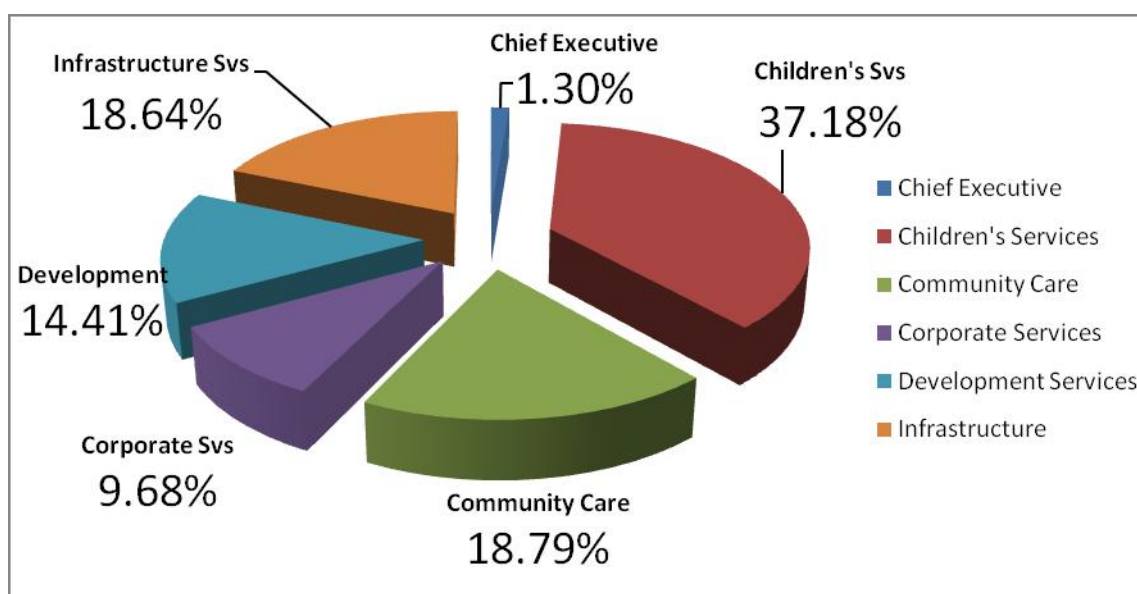
12.1 Based on the modelling performed in Section 11, the budget gap for the next 5 years is as follows:

Description	2012-13	2013-14	2014-15	2015-16	2016-17	2017-18
	£000s	£000s	£000s	£000s	£000s	£000s
Gap to be met by directorates	15,351	11,195	7,871	2,223	1,720	0

12.2 The budget gap can only be made up through a combination of increasing fees and charges and reducing costs across the Council.

12.3 It is important that the budget gap is addressed based on Members' priorities. In effect, this means that the priority directorates receive the greatest level of protection against the cuts.

12.4 The budget set on 9 February 2012 allocated the General Fund budget between the directorates (excluding Police and Fire) as follows:



12.5 Section 4 of this report describes the themes around Members' priorities and this has been used at the basis for determining an initial resource allocation to allow Target Operating Budgets to be set for each directorate across the timeframe of the Plan.

12.6 It is important to understand the Target Operating Budgets provide directorates with a financial envelope for developing a budget, but an iterative process will take place throughout the Autumn, whereby Members will have the chance to adjust directorate budgets based on the proposed budgets developed by directorates.

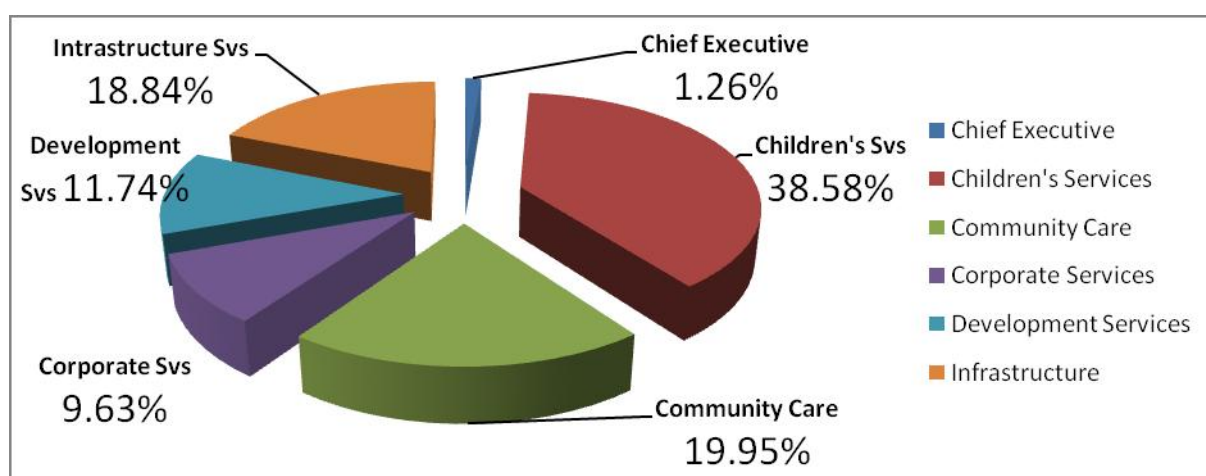
- 12.7 However, it is important to note that in order to operate within the overall financial envelope that is affordable to the Council, if Members agree to award more funding to one directorate or service, it will have to be at the cost of reducing a budget elsewhere.
- 12.8 Based on a broad understanding of Members' priorities the Plan seeks to protect Children's Services and Community Care Services and Infrastructure Services. Members also expressed a desire to ensure that there were sufficient resources available to run a well managed organisation.
- 12.9 By applying these priorities, working within available resources and applying a 2% efficiency target for each directorate that is not specifically targeted, the following Target Operating Budgets and associated budget gaps are proposed for each directorate:

2012-13 £000s	Directorate		2013-14 £000s	2014-15 £000s	2015-16 £000s	2016-17 £000s	2017-18 £000s
1,586	Chief Executive	Target Operating Budget	1,456	1,331	1,246	1,246	1,246
		Budget gap	(130)	(125)	(85)	0	0
45,278	Children's Services	Target Operating Budget	41,382	40,542	39,827	38,107	38,107
		Budget gap	(3,896)	(840)	(715)	(1,720)	0
22,886	Community Care Services	Target Operating Budget	20,524	20,114	19,711	19,711	19,711
		Budget gap	(2,362)	(410)	(402)	0	0
11,791	Corporate Services	Target Operating Budget	10,760	9,810	9,510	9,510	9,510
		Budget gap	(1,031)	(950)	(300)	0	0
17,545	Development Services	Target Operating Budget	15,588	11,942	11,601	11,601	11,601
		Budget gap	(1,957)	(3,646)	(341)	0	0
22,707	Infrastructure Services	Target Operating Budget	20,888	18,988	18,608	18,608	18,608
		Budget gap	(1,819)	(1,900)	(380)	0	0

12.10 The table below shows how the Target Operating Budgets per directorate reconcile back to the Total General Fund expenditure figure included in the budgeting model in Section 11:

	2013-14	2014-15	2015-16	2016-17	2017-18
	£000s	£000s	£000s	£000s	£000s
Chief Executive	1,456	1,331	1,246	1,246	1,246
Children's Services	41,382	40,542	39,827	38,107	38,107
Community Care Services	20,524	20,114	19,711	19,711	19,711
Corporate Services	10,760	9,810	9,510	9,510	9,510
Development Services	15,588	11,942	11,601	11,601	11,601
Infrastructure Services	20,888	18,988	18,608	18,608	18,608
Cumulative cost pressures	3,095	5,258	7,306	9,351	11,402
Total directorate budgets	113,693	107,985	107,809	108,134	110,185
Slippage	2,799	1,968	556	430	0
Total Spending	116,492	109,953	108,365	108,564	110,185
Less: Recharges Out	(5,568)	(5,568)	(5,568)	(5,568)	(5,568)
TOTAL GENERAL FUND EXPENDITURE	110,924	104,384	102,797	102,996	104,617

12.11 By adopting these Target Operating Budgets the relative proportion of General Fund spending would be adjusted as follows by 2017-18:



Directorate	2012-13 % of General Fund (exc Police and Fire)	2017-18 % of General Fund	Movement in % share of funding between 2012-13 and 2017-18
Chief Executive	1.30%	1.26%	-0.04%
Children's Services	37.18%	38.58%	1.40%
Community Care	18.79%	19.95%	1.16%
Corporate Services	9.68%	9.63%	-0.05%
Development	14.41%	11.74%	-2.66%
Infrastructure	18.64%	18.84%	0.19%
TOTAL	100%	100%	0%

Addressing the budget gap

- 12.12 Directorates will be required to address the budget gap set out in 12.9 above, in order to deliver budget proposals that are within the Target Operating Budgets set in 12.9 above.
- 12.13 There are 2 options available to directorates to fill budget gaps; identifying savings and introduce or increase existing fees and charges. In practice a combination of both options will be adopted by directorates where there is scope to do so.
- 12.14 There is an expectation that each directorate will deliver 2% efficiency savings each year prior to identifying any additional savings that may be required.

Fees and Charges

- 12.15 Shetland Islands Council has budgeted to achieve income of £9.6m from fees and charges levied on customers in 2012-13. This represents a significant amount of income and increasing these charges and creating new charges could make a significant impact on bridging the budget gap within directorates. The table below shows the breakdown of the income:

Category	Amount (£)
Sales	1,524,798
Fees & Charges	6,958,984
Rental Income (excluding Housing)	1,158,631
TOTAL	9,642,113

12.16 This means that for every 1% increase in fees, charges and rents, based on the current charging bases, almost £100,000 would be raised.

12.17 In relation to fees and charges there is an expectation in the Plan that:

- Where these are already levied, consideration will be given to increasing them;
- Where there are concession fees and charges, consideration will be given to reducing these or scrapping them altogether;
- Where the Council provides a service that could be provided by the private sector, consideration is given to introducing charging in instances where this doesn't already exist.

12.18 Any decisions around fees and charges should be undertaken in compliance with the Council's charging policy.

Council Tax

12.19 It is possible for the Council to increase Council Tax in order to contribute towards bridging the budget gap, but this would be in contravention to the concordat agreement between Scottish local authorities and the Scottish Government.

12.20 The Scottish Government provides an element of additional funding to Shetland Islands Council in its financial settlement as an incentive not to increase Council Tax. This funding would be lost if the Council were to increase Council Tax.

12.21 Council Tax provides limited scope for generating income for the Council. A 1% increase in Council Tax would generate approximately £85,000, so a significant increase would be required in order to make an impact on the budget gap.

12.22 As a result of these factors, the Plan assumes that Council Tax will remain frozen for the remainder of this Council term.

Safeguards and Contingencies

- 13.1 There is a risk to any organisation that its budget may not be delivered. It is therefore important to ensure that there are appropriate contingency arrangements in place that can be used in order to help put the organisation back on track for delivering its budget.
- 13.2 This will be important to Shetland Islands Council, particularly over the next 18 months to ensure that by 31 March 2014, the organisation is clearly working towards its objective of financial sustainability by meeting its set expenditure levels. By that stage, the draw on reserves for the year should be approximately half their current levels, and the 2014-15 budget should include savings that will ensure that general fund spending is getting near to the £100m per annum mark.
- 13.3 Therefore this paper sets out a number of options available regarding contingency measures to ensure that the objectives of the Plan are delivered throughout the next five years.
- 13.4 However, as a safeguard to the future viability of the Council, it would be appropriate to consider setting a date, and determining a set of measures in order to perform a “financial health check” on the Council.
- 13.5 It would be at this point, that if the Council failed to meet the indicators set in the health check, it would result in an escalation of the approach to dealing with the financial situation.

Contingency Measures

- 13.6 The Plan proposes to grant delegated authority to the Chief Executive to invoke the following measures if they are required –
- Taking decisions to make minor alterations to the level of service provision in order to stop the need to recruit to a post;
 - Closing the purchase ledger in period 10/11/12 as required (except for essential payments e.g. utilities);
 - Centrally close down non-essential budgets;
 - Cancel training (with the exception of instances where there was a legal requirement);
 - Temporary recruitment freeze (except for essential posts);
 - Ban non-contractual overtime
 - Stop third party grant payments
 - Delaying the commencement of contracts or cancelling them
 - Stopping all capital purchases (such as PCs etc)

Safeguarding Measures

- 13.7 Members will be provided with an annual overview of the financial position in the form of the provisional outturn report. However in addition to this, a key date should be determined for assessing whether the Plan is on course for delivery. It is recommended that this date be set as 30 June 2014.
- 13.8 By this time it will be clear whether the levels of savings required are being delivered and the impact that this is having on the reserves.
- 13.9 A financial health check would be the mechanism for assessing the Council's progress against the plan.

Financial Health Check

- 13.10 The key measures of the financial health check are –
- **The level of Reserves** – The level of reserves would be measured against the Medium Term Financial Plan projection. The variance threshold would be 10%. If the reserves were over 10% lower than the projection, an investigation would be undertaken to assess the factors that have caused this. If a reasonable explanation cannot be found the Council will have failed against this indicator.
 - **The size of the General Fund deficit** – The size of the annual General Fund deficit would be measured against the Medium Term Financial Plan. The variance threshold would be 10%. If the deficit was over 10% larger than the planned deficit an investigation would be undertaken to assess the factors that have caused this. If a reasonable explanation cannot be found the Council will have failed against this indicator.
 - **The projected draw on reserves for 2014/15 as at 30 June 2014** – Should the projected draw be over 10% greater than planned an investigation would be undertaken to assess the factors that have caused this. If a reasonable explanation cannot be found the Council will have failed against this indicator.
- 13.11 If the Council failed the financial health check then Members would have to consider a number of options to address this.

Consultation

- 14.1 Consultation and communication of the Plan and the resulting reviews will be essential if the Plan is to be implemented, and be successful in reducing expenditure but at the same time minimising the inevitable impact on services delivered to the Community.
- 14.2 The Plan will impact on services, communities and staff. To ensure there is a consistent and robust approach to service reviews, it is vital that consultation is part of the process. The Council has in place and is currently utilising the Community Consultation and Engagement Guide and Communications Plan. This can be found on the Council's website: <http://www.shetland.gov.uk/communityplanning/documents/CommunityConsultationEngagementGuide.pdf>.
- 14.3 Managers have also been provided with an in-depth review guide, which incorporates advice on the appropriate level of consultation. This guide ensures that issues such as risk assessment, equalities impact assessments, environmental and economic impacts etc are properly considered.
- 14.4 It should be recognised that the over-riding factor, in any consultation exercise is "the Council has to reduce expenditure" and expectations from any consultation exercise needs to bear this in mind.

Conclusion

- 15.1 This Plan sets out the action that needs to be taken in order to ensure that the Council achieves a financially sustainable budget. In doing so, it will safeguard the future service provision, ensuring that there are reserves available to sustain an enhanced level of public services in Shetland.
- 15.2 The Plan follows on from the work already undertaken that resulted in the 2012-13 budget being approved on 9 February 2012, which included a savings requirement of £15.4m for the year.
- 15.3 Whilst work is progressing well towards delivering the 2012-13 budget, there are still significant challenges ahead for the public sector in Scotland. It is anticipated that it will take at least another decade before public sector spending levels reach the levels last seen in 2009-10. Given that the Scottish Government core grant forms a significant part of the funding available to Shetland Islands Council, it is not possible for the organisation to be sheltered from the wider financial challenges facing every public sector body in Scotland.
- 15.4 In addition, the Council's reserves, which have provided a significant income stream to the Council over the past 20 years, are not immune from the global financial crisis. The medium term outlook is that the returns from the reserves will be less than half the long term average, representing a material decrease in income to the Council.
- 15.5 When taking these two factors together, it is imperative that the Council delivers the recurring savings targets in this Plan if it wishes to retain an acceptable level of reserves into the future.

**Shetland Islands Council****20 September 2012****Improvement Plan Progress Report**

IP-19-12-F

**Chief Executive
Executive Manager – Improvement &
Performance****Executive Services
Corporate Services****1.0 Summary**

- 1.1 This report gives an update on latest progress, plans and targets for the Council's Improvement Plan.
- 1.2 Shetland Islands Council agreed an ambitious Improvement Plan with the Accounts Commission in November 2010. This was intended to deliver a root and branch review of this Council's culture; identify changes needed in its political and other management arrangements, set out the standards to which it will aspire and overhaul its corporate systems and processes.
- 1.3 In their follow up report in January this year the Accounts Commission welcomed the prompt action and progress made by the Council delivering this plan, but emphasised the need for this positive direction and change to be sustained and consolidated.
- 1.4 Audit Scotland also highlighted the good overall progress made by the Council in implementing its improvement plan, in particular by implementing new political management arrangements and a new management structure.
- 1.5 They also observed that some elements of the plan had not progressed in line with original timescales, particularly around some aspects of financial management, but commented that at this stage this does not present a significant risk so long as improvement continues.

2.0 Decisions Required

The Council is asked to

- 2.1 note the latest progress reported in the Improvement Plan Progress Report – September 2012 (appendix 1);

- 2.2 endorse the continued implementation of the remaining improvement actions contained within that plan.

3.0 Detail

- 3.1 The Councils Improvement plan continues to be a living document monitored closely by relevant managers, Corporate Management Team and through the Improvement Sounding Board (see appendix 2).
- 3.2 The detailed progress report on Improvement actions shows all areas moving forward, some of the most significant areas of progress are highlighted in the table below.

Area	Highlight Actions
1. Vision, Leadership and Resource Alignment	<ul style="list-style-type: none"> • Member Induction delivered May / June 2012 • Council Action Plan and Departmental Plans endorsed by Council – July 2012 • New Chief Executive Appointed September 2012
2. Partnership Working and Community Leadership & Engagement	<ul style="list-style-type: none"> • Community Planning Partnership governance approved by Council and Partners – May 2012 • Community Plan adopted May 2012 by all partners • First meetings of the Board and Performance Group held July & August 2012 • Community Plan to be launched at summit Oct/Nov
3. Communications	<ul style="list-style-type: none"> • New website launched June 2012. Averaging 5k unique visitors weekly, with each spending 3 minutes on site and viewing 3 pages. • Twitter feed launched in June. • Corporate Facebook presence will begin when social media policy approved.
4. Governance and Accountability	<ul style="list-style-type: none"> • Councillor Development Programme in place. Prioritised training in Licensing, Planning, Recruitment & Selection and Audit & Standards have taken place. • Skills Framework (Self-evaluation tool), Development Plan and Development Log structures agreed and to be used with Councillors over the next few weeks. • Annual Accounts prepared and submitted on 27 June 2012 following a tightly managed process throughout April, May and June. • The audit clearance meeting was held on 3 September where audit issues were discussed. The Council received recognition for a good set of draft accounts, which required only 3 financial adjustments, none of which were material. • Audit Scotland will report to the Audit & Standards Committee on 27 September 2012 when it will become clear how much progress has been made with regards to the preparation of Annual Accounts.

Area	Highlight Actions
5. Performance Management, Improvement and Risk Management	<ul style="list-style-type: none"> • Key plans Council Action / Savings / Improvement / Directorate and Service plans updated and endorsed by Council in June / July 2012. • All Corporate / Departmental / Service Plans included relevant risk management as part of reporting to Council in June / July 2012. • All risk registers to be updated by end October 2012. • Regular reporting to of performance and progress to CMT / Council in line with PPMF from November 2012 using Covalent.
3. Financial Management	<ul style="list-style-type: none"> • A five year Medium Term Financial Plan will be presented to full Council on 20 September 2012. This will set out the level of spending that is sustainable with a view to reaching a level of spend by 2015/16 which does not require unsustainable draws on the Council's reserves. • The plan has been built following 3 Council seminars and regular communication with Directors through the Directors for Change group. The plan aligns the available resources to the Council's priorities.
7. People Management	<ul style="list-style-type: none"> • Draft Learning and Development programme reported to CMT and further work now underway to explore delivery methods and costs • Review of Employee Appraisal policy underway and on target
3. Asset Management	<ul style="list-style-type: none"> • Rationalisation of assets underway, with one property sold and another two to be advertised for late September. • Next tranche of disposals to follow completion of office accommodation review • Next update to Executive Committee planned for 5 November.
3. Procurement	<ul style="list-style-type: none"> • Centralised process for procurement of office supplies now well established with savings realised. • Workshop held in late June with regional Scotland Excel representative to maximise use of national framework contracts and to gather information for further contract opportunity development. • Other commodities are currently being reviewed and progressed for similar development, e.g. marine gas oil, foodstuffs, cleaning products and flooring.
10. Information Management	<ul style="list-style-type: none"> • ICT Strategy Information gathering completed August 2012, report to Council on 5th December 2012.
11. Sustainability	<ul style="list-style-type: none"> • Carbon Management development plan proceeding.
12. Equalities	<ul style="list-style-type: none"> • Equalities Group established and work underway to review existing arrangements and develop Equalities Action Plan

3.3 The Council's overall performance in service delivery and corporate health is reported by Audit Scotland annually. This is done through a shared assessment by our main external regulators, Audit Scotland, Care Inspectorate, Education Scotland and the Scottish Housing Regulator in December each year.

3.4 Judgements of the quality of Shetland Islands Council's service delivery have consistently been very positive; all front line directorates and service areas have maintained a Green / No Significant Risk rating for a number of years. The Councils Corporate Assessment, (against

the same Best Value headings used in the table above) has however been more mixed.

- 3.5 In 2010 this Council had 9 areas judged as being Red / Significant Concerns. With the implementation of the Improvement Plan this was reduced to 3 at the start of this year. I believe there will be no area rated in this category from the next update and the majority of areas will be Green / No Significant Risks.

Assessment	2010	2011	2012	2013 (projected)
No Significant Risks (Green)	6	6	6	11
Area of Uncertainty (Amber)	4	7	10	8
Significant Concerns (Red)	9	6	3	0

- 3.6 While we have achieved a very considerable amount in a short space of time, there is still more work to do. We must make sure that we take just as effective action on the outstanding areas of the improvement plan; and ensure that the changes we have put in place are sustained.

4.0 Implications

Strategic

- 4.1 Delivery On Corporate Priorities – At its meeting on 10th November 2010 (min ref 161/10) the Council resolved to approve an Improvement Plan and delegate authority to the Chief Executive to take the necessary action to implement it.
- 4.2 Community /Stakeholder Issues – NONE
- 4.3 Policy And/Or Delegated Authority –
- 4.3.1 The Councils constitution – Part A Governance - specifies the Executive Committee as the managing body for the Corporate Improvement Plan but decision making responsibility is reserved to the full Council. It was not possible to bring this progress report to the relevant meeting of the Executive Committee so it is being reported direct to Full Council.
- 4.3 Risk Management – Failure to deliver and embed the improvements agreed increases the risk of the Council working inefficiently and being subject to further negative external scrutiny.
- 4.4 Equalities, Health And Human Rights – NONE
- 4.5 Environmental – NONE

Resources

- 4.6 Financial – Remaining Improvement Plan implementation will be funded from previously approved budgets.
- 4.7 Legal – NONE
- 4.8 Human Resources - NONE
- 4.9 Assets And Property – NONE

5.0 Conclusions

- 5.1 The Council should consider the solid progress that continues to be made on the implementation of the improvement plan and endorse further activity to ensure progress is maintained and the changes already made are sustained.

For further information please contact:

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11/09/2012

Links to Background documents:

- Appendix 1 – September 2012 – Improvement Plan Progress Report
- Appendix 2 - Improvement Plan Management Arrangements

Introduction:

1. The Shetland Islands Council Improvement Plan is based on a combination of work carried over from the Accounts Commission Improvement Plan, a comprehensive corporate self evaluation using Audit Scotland's "*Characteristics of a Best Value Council*" carried out in consultation with senior managers across the organisation and the most recent Audit Scotland "Assurance and Improvement Plan" (AIP).
2. The Council's Planning and Performance Management Framework (PPMF) requires the Improvement Plan to be considered by the Council alongside its other key plans at least annually; in overall strategy terms each September/October, and for detailed actions and targets each March / April.
3. It will be reported on and monitored, by Corporate Management Team and the Executive Committee on at least a quarterly basis also in line with the Council's PPMF.
4. Delivery against the Improvement Plan will also form a core element of senior management performance management arrangements.
5. The plan is broken down using the standard classifications used in Best Value and by Audit Scotland when considering Corporate Performance namely;

Vision, Leadership and Resource Alignment	Use of resources;
Partnership Working and Community Leadership & Engagement	<ul style="list-style-type: none"> • Financial Management • People Management
Communications	
Governance and Accountability	<ul style="list-style-type: none"> • Asset Management • Procurement
Performance Management, Improvement and Risk Management	
Sustainability	<ul style="list-style-type: none"> • Information Management
Equalities	

6. These areas are described further on the next two pages along with the measures that will be included in performance reporting in the "Shetland Improvement Framework" which provides an overall summary of the Improvement Plan.
7. The measurement set proposed in the Improvement Plan are judged to be the best practice indicators currently in common usage. However this area is the subject of significant activity nationally led by Solace, COSLA and the Improvement Service. Any developments in this area will be monitored and the measurement set may be adjusted accordingly.

SHETLAND IMPROVEMENT FRAMEWORK

Securing the best for Shetland

Customer Focus Fairness Honesty Transparency Respect Trust Positive Attitude Hardworking

STRATEGIC OBJECTIVES

CLEAR VISION AND DIRECTION		WORKING IN PARTNERSHIP	WELL GOVERNED AND ACCOUNTABLE	PERFORMANCE FOCUSED	MAKING BEST USE OF OUR RESOURCES	
IMPROVEMENT OUTCOMES	We have a clear vision and sense of purpose which reflects local needs; and we can demonstrate joined-up planning and resourcing to deliver that vision					IMPROVEMENT OUTCOMES
	We give strong community leadership and deliver improvement with our partners; and we engage effectively with communities in understanding their needs, and when making decisions					
	We provide good quality information to deliver effective public accountability					
	We ensure the Council exhibits good governance and maintains strong internal accountability					
	We have a strong improvement led and performance driven culture and systems; and we have a systematic approach to identify risks and develop effective responses					
	We have robust financial management arrangements that ensure financial sustainability; and we make spending decisions that realistically reflect our financial resources and limits					
	We integrate effective workforce planning with our other key planning processes					
	We make the best economic, efficient and effective use of our buildings and physical assets					
	We can demonstrate we meet our supply needs economically and efficiently					
	We have secure information and communication systems that support service delivery					
	We have sustainability embedded in our vision and ensure we use resources sustainably					
	We lead equality improvements, provide equality of opportunity and fair outcomes					

Appendix 1 - IMPROVEMENT PLAN PROGRESS - SEPTEMBER 2012

Shetland Islands Council Improvement Framework – Measurement Set

IMPROVEMENT INDICATORS	Staff Numbers	Total Cost of the Procurement Function	IMPROVEMENT INDICATORS
	Cost of Overtime	Actual spend against contracts percentage	
	Sickness Absence Rates	Spend managed by procurement professionals	
	Energy Usage	Savings achieved through procurement	
	Employee Review and Development	Procurement Commissioner and User Satisfaction	
	Return to Work Interviews	Procurement Management Practice Index	
	Accidents/Incidents	Total property Costs	
	Insurance Claims	Total Accommodation per Staff FTE	
	Mileage Cost	Total Property Maintenance Backlog	
	Complaints	Estates Commissioner and User Satisfaction Index	
	Cost of HR Function	Estates Management Practice Index	
	Ratio of employees to HR staff	Communication Costs	
	Time invested in HR learning & development	Communications Staff	
	Leavers %	Professional Communications Staff	
	HR Commissioner & User Satisfaction Index	Communications Client & Stakeholder Index	
	HR Management Practice Index	Communications Management Practice Index	
	Total Cost of Finance Function	Total Cost of Legal Function	
	Cycle time from Period End to Reporting	Total Cost of In-House legal Function	
	Variation between Forecast and Actual Outturn	Legal Commissioner & User Satisfaction Index	
	Quality of Finance Reports against good practice	Legal Management Practice Index	
	Percentage of spend with costed outputs	Cost of Legal Function per FTE	
	Finance Commissioner & User Satisfaction Index	Cost of learning and Development as percentage	
	Finance Management Practice Index	Total number of Complaints per Legal Employee	
	Cost of ICT Function	Cost per Hour of providing legal work	
	ICT Competence of Use	Professionally Qualified Legal Staff	
	Organisational ICT Spend	Cost of Performance Management Function	
	Incidents resolved within agreed Service Levels	P&I Commissioner and User Satisfaction Index	
	Project Governance and Delivery Index	P&I Management Practice Index	
	Percentage of top transactional activities e-enabled	Cycle Time from Period End to Reporting	
	ICT Commissioner and User Satisfaction Index	Quality of P&I reports against good practice	
	ICT Management Practice Index		

SHETLAND ISLANDS COUNCIL IMPROVEMENT PLAN 2012/13

	Area	Best Value Toolkits / Indicator Guidance	Background / Context
1	We have a clear vision and sense of purpose which reflects local needs and we can demonstrate linked-up strategic planning and resourcing to deliver that vision.	<u>BV Vision and strategic direction toolkit</u> <u>BV Planning and resource alignment</u>	Current AIP rating Amber
Improvement Lead : Chief Executive			Departmental Support: Quality Improvement Manager Mental Health Manager Director Infrastructure
Responsible Executive Manager (s) : Executive Manager Performance and Improvement Manager Community Planning and Development Manager Finance Manager			

IP	2d	Objective	Actions	Timescales / Targets	Outcome /Measures	Progress
1.1	IP04 IP05	Re-establish public confidence in the way the Council is being run through strong and effective political and managerial leadership, co-operation and backing.	Continuing to develop, promote and deliver a focused and effective 'Improvement Programme'.	<ul style="list-style-type: none"> • Checkpoint at Auditors Letter following accounts completion in November 2012 • Checkpoint at Accounts Commission follow up December 2012 • Checkpoint at Local Area Network and Audit Improvement Plan in January 2013 • Checkpoint at Best Value 2 Audit late 2013. • Regular progress reporting to CMT / Council. • Annual refresh in March 2013 in line with PPMF. 	The Council's services and sustainability is improved and its reputation as being a well-run public body continues to be re-established and we are well prepared for further scrutiny and the upcoming BV2 audit.	<ul style="list-style-type: none"> • Improvement Plan approved by Council July 2012 • Progress reported to CMT / Council September 2012
1.2		Make sure that the values and principles of the Council are clearly set-out, communicated and understood and	Agreement of clear Values and Principles by the new Council in their key strategies and plans, complemented by effective induction and followed up by a shared	<ul style="list-style-type: none"> • Shared Learning and Development Programme – September 2012 onwards 	There is a shared understanding of the overall ethos and culture of the Council by everyone and a day by day demonstration that those values and	<ul style="list-style-type: none"> • Member Induction delivered May / June 2012 • Council Action Plan and Departmental Plans endorsed by Council – July 2012 • Draft Learning and Development programme reported to CMT and further

Appendix 1 - IMPROVEMENT PLAN PROGRESS - SEPTEMBER 2012

IP	2d	Objective	Actions	Timescales / Targets	Outcome /Measures	Progress
		that political and Mgrial leadership take a leading role in demonstrating these values and principles in their statements and actions	learning and development programme		principles are upheld	work now underway to explore delivery methods and costs
1.3		Senior Councillors and Senior Management demonstrate ownership and accountability for the Council Action Plan	Senior Councillors, the Chief Executive and Corporate Management Team taking the lead in developing the new Council's Council Action Plan and communicating that Council Action Plan to the public and staff. That lead role will include communicating its purpose, understanding and describing how it links to the Community Plan, Single Outcome Agreement, Improvement Plan and Savings Reviews, and speaking positively about it thereby reinforcing its status as the guiding document it is meant to be	<ul style="list-style-type: none"> • Council Action Plan extended to 2017 and endorsed by Council October to December 2012. • Learning and Development programme from September 2012 forward. • Regular reporting of progress to CMT / Council in line with PPMF. • Annual refresh for Council Action Plan approved by Council October each year. 	Councillors and officers speak positively about the Council Action Plan, recognising its significance as a key document and staff feel more informed about what the priorities of the organisation are.	<ul style="list-style-type: none"> • Member Induction delivered May / June 2012 • Council Action Plan and Departmental Plans endorsed by Council – July 2012 • Draft Learning and Development programme reported to CMT and further work now underway to explore delivery methods and costs
1.4		Chairs and Directors demonstrate ownership and accountability for their Directorate	Committee Chairs, Directors and Departmental Management teams to take the lead in developing Directorate	<ul style="list-style-type: none"> • Member induction May / June 2012 • Directorate Plans to be agreed by Council in June 2012. • Learning and Development programme from September 2012 forward. • Regular progress reporting to CMT / 	Managers understand better how to link further planning activity and staff feel more informed about what their priorities are.	<ul style="list-style-type: none"> • Member Induction delivered May / June 2012 • Council Action Plan and Departmental Plans endorsed by Council – July 2012 • Draft Learning and Development programme reported to CMT and further

Appendix 1 - IMPROVEMENT PLAN PROGRESS - SEPTEMBER 2012

IP	2d	Objective	Actions	Timescales / Targets	Outcome /Measures	Progress
		Plans	Plans and communicating them to the public and staff – Understanding how they link to the Community Plan, Single Outcome Agreement and Council Action Plan, communicating what their purpose is and ensuring managers and staff are able to link further planning and their actions in service delivery back to them.	<p>Council in line with PPMF.</p> <ul style="list-style-type: none"> Updated and approved by Council annually March 2013 and each year thereafter. 		work now underway to explore delivery methods and costs
1.5	IP04 IP07	Recruitment of a permanent Chief Executive	Carrying out a structured Chief Executive recruitment exercise.	<ul style="list-style-type: none"> Recruitment process initiated by Council June 2012. 	The Council has secure leadership and effective handover.	<ul style="list-style-type: none"> New Chief Executive Appointed September 2012
1.6	IP02 IP03 IP04 IP06	To develop a Medium Term Financial Plan covering the term of this Council (2012-2017). The plan will serve the purpose of both being a budget strategy and a reserves strategy.	Produce a Medium Term Financial Plan (budget and reserves strategy) covering the term of the next Council (2012-2017).	<ul style="list-style-type: none"> 20 Sept 2012 for consideration of Medium Term Financial Plan by Council. 	We have an agreed Medium Term Financial plan to refer to when planning budgets and the delivery of services.	<ul style="list-style-type: none"> 20 Sept 2012 for consideration of Medium Term Financial Plan by Council.
1.7	IP05 IP06	Continue to work to align the Financial Planning and Budgeting Framework with the Planning and Performance Management	Aligning the timetables, time-spans and approaches for medium term financial planning & annual budgeting with Council, Directorate and service planning. Making sure that Financial	<ul style="list-style-type: none"> September 2012 to March 2013 for improved alignment 	We have better joined up service planning and budget setting processes which should allow Councillors to provide direction for officers at an earlier stage of the planning cycle.	<ul style="list-style-type: none"> 20 Sept 2012 for consideration of alignment timetable by Council.

Appendix 1 - IMPROVEMENT PLAN PROGRESS - SEPTEMBER 2012

IP	2d	Objective	Actions	Timescales / Targets	Outcome /Measures	Progress
		Framework 2013	and Service Delivery directions are updated in full understanding of each other and that Budget and Service planning timetables are aligned from November 2012 to March 2013.			
1.8	IP05	Make sure that the Councils key service delivery priorities and objectives are effectively described, monitored and reported.	Lead the development of the Single Outcome Agreement and the collection and reporting of outcomes. Seeing that that all the data in the Single Outcome Agreement, Improvement Plan, Departmental Plans and Service Plans is complete and accurate without gaps. Ensure that it is regularly monitored and reported to the right people and groups in a clear and accurate fashion.	<ul style="list-style-type: none"> Monitoring and reporting to CMT / Council in line with PPMF through Covalent from September 2012 All SOA actions and measures reportable by March 2013 	Councillors, members, staff and the public can see that intentions and plans are being carried through to delivery and that issues can be identified and addressed.	<ul style="list-style-type: none"> Covalent system implementing, reporting to CMT / Council from November 2012.
1.9	IP05	Ensure that the Council's Planning and Performance Management arrangements continue to be developed, and are communicated, understood and implemented consistently	Making sure the Planning and Performance Management Framework is regularly reviewed and updates. Ensuring it is explained to members, Mgrs and staff. Ensuring that key plans are update and clear reports are submitted for information or endorsement regularly and on time.	<ul style="list-style-type: none"> PPMF monitoring through Covalent from September 2012. Learning and development in PPMF delivered from September 2012 	There is a robust Planning and Performance Framework widely understood and followed and accepted as the way that the Council does its normal business.	<ul style="list-style-type: none"> Covalent system implementing, reporting to CMT / Council from November 2012. Draft Learning and Development programme reported to CMT and further work now underway to explore delivery methods and costs External PPMF evaluation being investigated.

Appendix 1 - IMPROVEMENT PLAN PROGRESS - SEPTEMBER 2012

	Area	Best Value Toolkits / Indicator Guidance	Background / Context
2	We give strong community leadership and deliver improvement with our partners; and we engage effectively with communities in understanding their needs, and when making decisions	<u>BV Partnership working and community leadership toolkit</u> <u>BV Community Engagement Toolkit</u>	Current AIP rating Green
Improvement Lead : Director of Children’s Services			Departmental Support: Performance and Improvement Manager Criminal Justice Manager Environmental Health & Trading Standards Manager
Responsible Executive Manager : Community Planning and Development Manager			

IP	2d	Objective	Actions	Timescales / Targets	Outcome /Measures	Progress
2.1		Implement and communicate the new arrangements for Community Planning in Shetland	Having in place an Implementation Plan Establishing a Partnership Board and Performance Group Ensuring those arrangements are explained and communicated to all	<ul style="list-style-type: none"> New governance arrangements to be in place by October 2012 	Employees and the public are more aware of the value that community planning adds to the delivery of public services in Shetland.	<ul style="list-style-type: none"> Community Planning Partnership governance approved by Council and Partners – May 2012 Community Plan adopted May 2012 by all partners First meetings of the Board and Performance Group held July & August 2012 Community Plan to be launched at summit Oct/Nov
2.2	IP 1	Work to embed the new Community Plan and Single Outcome Agreement into Councillors', staff and partners' planning processes;	Promoting and explaining the new community Plan and SOA across partner organisations, and that they are reflected in the departmental and service plans of Shetland Islands Council; SO	<ul style="list-style-type: none"> Final version of the SOA adopted July 2012 by partners Council Action Plan considered by Council in July 2012 Council Departmental and Service Plans approved by Council in June/July 2012 Monitoring of Community Plan and SOA for Shetland Islands Council and partner organisations 	There is evidence that staff, partners and Councillors recognise the significance of the community Plan and SOA.	<ul style="list-style-type: none"> Community Plan adopted May 2012 by all partners Included in member induction May/June 2012

Appendix 1 - IMPROVEMENT PLAN PROGRESS - SEPTEMBER 2012

2.3	IP 03	Improve communications from the Community Planning Partnership	Minutes of meetings / actions to be made widely available and meetings open to the press	<ul style="list-style-type: none"> Implemented from the first meeting under new Community Planning Partnership arrangements in June / July 2012 Press attendance at Community Planning Partnership Four newsletters a year issued 	Employees and the public are more aware of what the Community Planning Partnership does and the benefits effective Community Planning can bring to Shetland.	Shetland Partnership Board minutes available on COINS Press release following first Board meeting drafted
2.4	IP 04	Improve Councillor understanding of how we work together	Community Planning contributing to the Councillors induction and the Learning and Development Programme;	<ul style="list-style-type: none"> Member induction May / June 2012 Shared Learning and Development Programme from September 2012 onwards 	Better understanding of partner organisations contribution to planning and delivery of the Community Plan.	Member induction session held on Community Planning & working with partners
2.5		Improve joint working / shared service delivery models with community planning partners	Progressing the five co-ordinated 'Thematic Groups' and joint initiatives	<ul style="list-style-type: none"> As part of the implementation plan the new structure of thematic groups is developed as appropriate Minutes of thematic group meetings are available 	That the community planning partnership demonstrates that it is contributing to improving services and making best uses of resources.	Partnership Group development sessions being planned
2.6	IP 6 03	Establish more effective financial planning links between community planning partners	Sharing current sources of funding.	<ul style="list-style-type: none"> Proposals for establishment of links to be developed. 	The long-term overall sustainability of Shetland's public services is improved.	Shared finance group being considered by the Performance Group
2.7	IP 05	Organise more effective and regular links with community planning partners to discuss and share plans and approaches to risk management;	Ensuring planned sched Strategic Risk Sharing Partnership	<ul style="list-style-type: none"> Proposals for establishment of links to be developed. 	We learn from each other and shared risks are managed co-operatively.	Shared risk management group established – first meeting held in July

Appendix 1 - IMPROVEMENT PLAN PROGRESS - SEPTEMBER 2012

2.8	IP 04	Ensure that the Community Engagement strategy is fully understood by Councillors, Mgrs and relevant staff and that all Councillors and Mgrs have been appropriately trained	The induction programme and follow up learning and development ensuring Councillors understand their role and the importance of community engagement and the Council is using VoiCE as its main consultation tool	<ul style="list-style-type: none"> • Monitor number of councillors and staff trained 	Capacity is developed in the Council, to ensure that an effective, transparent and co-ordinated approach is taken to community engagement.	<ul style="list-style-type: none"> • Member Induction delivered May / June 2012
2.9	IP 04	Ensure all review activity includes full Community Engagement in line with policy where that is relevant	Making sure each review conducts appropriate Community Engagement and consultation	<ul style="list-style-type: none"> • Progress to be reported to "Directors for Change" from April 2012. • Results of Community Engagement to be included in review outcome reports to Committee / Council. • Timetable and format for review completion/reporting to be advised. 	Individuals and communities have been well informed about the choices being considered and can be assured their views have been listened to and considered.	<ul style="list-style-type: none"> • Requirement for Community engagement included in review guidance issued March 2012. • Review plans including Community Engagement proposals to approved by "Directors for Change" May 2012.
2.10		Make sure we have systematic information from the public on a range of subjective measures of satisfaction	The Community Engagement Network bringing 'Your Voice' (Citizens Panel) arrangements up to date and conducting regular opinion surveys.	<ul style="list-style-type: none"> • Next "Your Voice" survey including SOA baseline questions to be completed by September 2012 	The Council and Community Planning Partners can analyse the Shetland Public's views on perceptions of service delivery and subjective outcomes in as objective a way as possible.	Options for most cost6 effective mechanism for delivery of public opinion survey being evaluated.

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2.11	IP 4	Establish local scrutiny and engagement arrangements for reformed Police and Fire authorities as link Council for the joint Islands Pathfinder.	<ul style="list-style-type: none"> • Progress work on Police & Fire reform as a Pathfinder authority • Act as link officer for the joint Islands Pathfinder • Maintain good communication links with each Island authority • Establish Shetland project team • Assess and consider options • Develop project and implementation plan 	<ul style="list-style-type: none"> • Timetable to be advised 	Local scrutiny and engagement arrangements in place in line with National review requirements	Police & Fire Reform Project Team and Board established Project plan in place and approved by Project Board
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	Area	Best Value Toolkits / Indicator Guidance	Background / Context
3	We provide good quality information to deliver effective public accountability	Public performance reporting Toolkit <u>Communications Indicators</u>	Current AIP rating Green
Improvement Lead : Director of Development			Departmental Support: Library Manager Mental Health Manager Ferry Operations Manager ICT Manager
Responsible Executive Manager : Executive Manager			

IP	2d	Objective	Actions	Timescales / Targets	Outcome /Measures	Progress
3.1		Improved communications for the Council as a whole	Complete Implementation of the Communications Strategy Action Plan	<ul style="list-style-type: none"> Detailed timetable in Communications strategy. Completion March 2013 	Improved communications	Communications strategy Implementation on timetable
3.2		Use digital communications as effectively as possible to inform the public	Improve the council's website and update information regularly	<ul style="list-style-type: none"> 	The Council takes a proactive approach to its public relations, updating the website regularly with important and interesting information	New website launched June 2012. Averaging 5k unique visitors weekly, with each spending 3 minutes on site and viewing 3 pages. Twitter feed launched in June. Corporate Facebook presence will begin when social media policy approved.
3.3		Improve the co-ordination of the development and communication of key council messages	Make sure staff from the Communications Unit attend key agenda-setting meetings to help identify communication issues at an early stage.	<ul style="list-style-type: none"> From July 2012 	Better co-ordinated communications	Staff now attending key agenda-setting meetings; advice provided on potential communication issues; and communications co-ordinated accordingly.
3.4		Improve the co-ordination of the development and communication of key council messages	Involve the Communications Unit in project planning so that communications issues can be considered at an early stage.	<ul style="list-style-type: none"> From July 2012 	Better co-ordinated communications	Communications Unit involved in planning a number of high profile events, e.g. Norwegian prime ministerial visit, Olympic torch. Also advising on ongoing service reviews.

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	Area	Best Value Toolkits / Indicator Guidance	Background / Context
4	We ensure the Council exhibits good governance and maintains strong internal accountability	<u>Governance and accountability</u> <u>Legal Services Indicators</u>	Current AIP rating Red
Improvement Lead : Director of Corporate Services			Departmental Support: Children & Families Manager Adult Services Manager Port Operations Manager
Responsible Executive Manager : Governance & Law Executive Manager Finance Manager Internal Audit Manager			

IP	2d	Objective	Actions	Timescales / Targets	Outcome /Measures	Progress
4.1	IP05	Deliver Member Induction in May 2012.	Deliver Member Induction for Councillors in from 2012.	•	Councillors are well briefed on most important aspects of their role and the Councils organisation and processes	Member induction delivered May / June 2011
4.2	IP05	Implement a comprehensive training and development programme for Councillors, with all Councillors having Personal Development Plans	Carrying out induction followed by a learning and development programme to cover all essential areas of members understanding and address individual needs and requirements.	<ul style="list-style-type: none"> • Induction May to August 2012. • Learning & Development programme first phase from September 2012 to March 2013. • Personal Development Plans in place by October 2012 	Councillors are receiving the training they need to be able to perform their roles effectively and with confidence.	<p>Comprehensive Induction programme delivered 7-18 May.</p> <p>Councillor Development Programme in place. Prioritised training in Licensing, Planning, Recruitment & Selection and Audit & Standards have taken place.</p> <p>Skills Framework (Self-evaluation tool), Development Plan and Development Log structures agreed and to be used with Councillors over the next few weeks.</p>

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4.3	IP06	Prepare a high quality set of Financial Statements for the 2011/12 year.	<ul style="list-style-type: none"> • Ensure that appropriate time and resources are dedicated to the production of the draft 11/12 accounts. • Ensure that robust project management arrangements are in place for the production of the draft financial statements. • Ensure appropriate quality control measures are put in place to review the accounts prior to submission. 	<ul style="list-style-type: none"> • 30 June 2012 	Draft accounts are submitted on 30 June 2012 Draft accounts do not draw negative criticism from Audit Scotland	The Annual Accounts were prepared and submitted on 27 June 2012 following a tightly managed process throughout April, May and June. The audit clearance meeting was held on 3 September where audit issues were discussed. The Council received recognition for a good set of draft accounts, which required only 3 financial adjustments, none of which were material. Audit Scotland will report to the Audit & Standards Committee on 27 September 2012 when it will become clear how much progress has been made with regards to the preparation of Annual Accounts.
4.4	IP06	Councils financial statements are no longer qualified	Work towards addressing the qualification issue, with a view to obtaining an unqualified audit opinion on the 2011/12 financial statements investigating all routes and options	<ul style="list-style-type: none"> • 30 September 2012 	Unqualified audit opinion on the 2011/12 financial statements	The Annual Accounts were prepared in accordance with the Code of Practice on Local Authority Accounting. It was the view of the Section 95 Officer that this required the results of the Shetland Charitable Trust to be consolidated as a subsidiary in the Council's group accounts. Therefore publicly available information was used to attempt to group. It will become clear on 27 September as to whether the Council's accounts will be qualified.
4.5	IP06	Prepare appropriately for 2012/13 accounts	Developing a project plan for the 2012/13 financial statements prior to 31 March 2013	<ul style="list-style-type: none"> • 31 March 2013 	Project Plan in place prior to the end of the financial year	Work to commence on this during January 2013.
4.6		Introduce more comprehensive Member Support Service	Competing and implementing the review of Members support arrangements	<ul style="list-style-type: none"> • Member support review to be complete and implemented by July 2012. 	Councillors receive effective support and policy advice, which allows them to carry out their roles effectively.	ocused support team now in place.

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4.7		To continue the work on the local Health and Social Care Integration Project.	This will draw on the consultation on the Scottish Government's proposals for legislation to introduce new joint working arrangements between local authorities and health boards.	<ul style="list-style-type: none"> 2012/13 	Health and Social Care Partnerships that will replace CHPs	Ongoing
4.8		Delivery of Audit Plan	Delivery of Audit Plan	<ul style="list-style-type: none"> March 2013 	Audit Plan completed for 12/13	Audit plan on timetable
4.9	IP06	To plan for statutory and regulatory developments so the Council's finance service is well placed to adapt as required to comply with changes in the external environment	<ul style="list-style-type: none"> Ensure that any changes to financial regulation in respect of the production of the final accounts is taken into account. Provide LGPS members with confirmation of their Pension Annual Allowance Amount (i.e the amount by which their pension has increased in any one year) Put in place systems/policies to comply with the DWP – Pensions Auto-enrolment Report and communicate developments on new LGPS – Scotland as they become available 	<ul style="list-style-type: none"> 31 March 2013 30 Sept 2013 31 March 2013 	<p>Staff are kept up to date of any changes in financial regulation and legislation and any changes are included in the final accounts</p> <p>Compliance with HMRC requirements</p> <p>Communicate with all affected staff Communicate to Elected Members and staff of any new LGPS developments</p>	Key officers in Finance have been attending national meetings and fora to keep up to date with developments so that Shetland Islands Council is able to effectively meet and adapt to changes in the external environment.

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4.10		Ensure that the Council has a clear overall statement of its Corporate Governance arrangements	Complete the Councils "Code of Corporate Governance"	<ul style="list-style-type: none"> September 2012 – December 2012 	Ensure that the Council has a clear overall statement of its Corporate Governance arrangements	Self-The Local Code of Corporate Governance will be presented to Committee in September 2012 and following approval, evaluation against the self assessment framework will be carried out with a performance report being submitted in December.
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	Area	Best Value Toolkits / Indicator Guidance	Background / Context
5	We have a strong improvement led and performance driven culture and systems; and we have a systematic approach to identify risk and develop effective responses	<u>Performance management</u> <u>Challenge and improvement</u> <u>Customer-focus and responsiveness</u> <u>Efficiency</u> <u>Risk management</u>	Current AIP rating Amber
Improvement Lead : Director of Infrastructure			Departmental Support: Children’s Resources Manager Adult Services Manager
Responsible Executive Manager : Performance and Improvement Governance and Law Internal Audit			

IP	2d	Objective	Actions	Timescales / Targets	Outcome /Measures	Progress
5.1		Make sure that all strategies and plans from the Community Plan down to Individual Work Plans and Performance Targets have clear links (the Golden Thread) and that everyone is able to see how their decisions and activity links together.	Having all key plans in place, "the Golden Thread" being a core element of the learning and development programme, an up to date employee appraisal policy in place and robust monitoring being carried out	<ul style="list-style-type: none"> Investigate "Golden Thread Health Check" - October 2012. Core element of learning and development programme from September onwards. Updated Employee appraisal and development policy adopted by October 2012. Employee appraisal monitored through Covalent from October 2012. 	Councillors, Mgrs and Staff are able to demonstrate and understand how the Councils intentions, decisions and actions are linked together and followed through to deliver its priorities.	<ul style="list-style-type: none"> Key plans updated and in place by June / July 2012. Draft Learning and Development programme reported to CMT and further work now underway to explore delivery methods and costs Review of Employee Appraisal policy underway and on target

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5.2		Establish, manage and monitor a planned programme of reviews to ensure that service areas are rigorously challenged to show how their method of service delivery is the most efficient / effective for Shetland.	Monitor and report progress against the Councils programme of savings reviews	<ul style="list-style-type: none"> Quarterly progress reporting to Council July, October 2012 & January 2013. Format and Timetable for individual review reports to Committee / Council to be advised. 	Service improvements and savings are identified and delivered.	<ul style="list-style-type: none"> 2012 & 2013 Review programmes defined by Council February 2012. Programme management through "Directors for Change" agreed by CMT March 2012. Regular reporting to "Directors for Change" from April 2012.
5.3		Provide benchmarking information to compare this Council's service quality / level with those of other Councils to challenge / contextualise their performance. Develop unit costs, quality indicators and/or trend analysis for services, to help focus review activity	Benchmarking part of all Departmental and Service planning, review and performance monitoring activity	<ul style="list-style-type: none"> Built into Departmental and Service Planning by June/July 2012. Feature of all relevant reviews from March 2012. Included in regular reporting to CMT / Council in line with PPMF. 	The public are better informed of the quality / cost of current service delivery levels – how these compare to other Council areas and Councillors and Mgrs have a better understanding of what drives costs and can show that these are being managed and reduced	<ul style="list-style-type: none"> Built into Departmental and Service Planning from June/July 2012. Feature of all relevant reviews from March 2012.
5.4		Take a more proactive and systematic approach to analysing the Councils current performance and identifying improvement opportunities.	Adopting and implementing a structured self evaluation framework	<ul style="list-style-type: none"> Departmental / Service Self Evaluation programme to be advised. 	Robust and systematic analysis of performance strengths and weaknesses has identified SMART improvement objectives across the Council that inform future planning and an effective tool to use as part of preparation for BV2	<ul style="list-style-type: none"> "How Good is our Council" + "Best Value 2" endorsed March 2012. Corporate Self Evaluation – May to July 2012. Departmental / Service Self Evaluation programme to be advised.
5.5	IPO 4	Improve and simplify complaints handling	Introducing a new Complaints Handling Procedure to ensure compliance with SPSO requirements and best practice	<ul style="list-style-type: none"> New procedure agreed by November 2012 Rolled out from December 2012 	The public are more aware of the Complaints Procedure's existence and there is a clearer understanding of what constitutes a formal complaint.	<ul style="list-style-type: none"> New procedure agreed by November 2012 Rolled out from December 2012

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5.6		The Council will better understand the needs of its customers, ensure that it meets its service standards pledges and target the delivery of more flexible and responsive services	Develop and Implementing a Customer Focus Strategy	<ul style="list-style-type: none"> • Strategy approved by October 2012 • Rolled out from December 2012 	The Council can be assured its standards are being met and improvements in Customer service can be identified and delivered.	Strategy Development proceeding, probable delay to timetable due to range of other priority actions.
5.7	IPO 4	Make sure that all significant risks have been identified and are being actively managed.	Making sure all Risk Registers are complete and up to date.	<ul style="list-style-type: none"> • All risk registers updated by June 2012. • All Corporate / Departmental / Service Plans to include relevant risk management as part of reporting to Council in June / July 2012. • Regular reporting to CMT / Council in line with PPMF from September 2012. 	Clear risk management/Governance strands connect the Council's Key Priorities to service delivery	<ul style="list-style-type: none"> • All Corporate / Departmental / Service Plans included relevant risk management as part of reporting to Council in June / July 2012. • All risk registers to be updated by end October 2012. • Regular reporting to CMT / Council in line with PPMF from November 2012.
5.8		Continue to build on success of Corporate Audits in accordance with revised strategy	Continue to build on success of Corporate Audits in accordance with revised strategy	<ul style="list-style-type: none"> • From April 2012 to March 2013 	Better Council wide picture on issues for CMT.	<ul style="list-style-type: none"> • Corporate audits are continuing as part of the audit plan and are reported to CMT and thereafter Audit & Standards as appropriate

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	Area	Best Value Toolkits / Indicator Guidance	Background / Context
6	We have robust financial management arrangements that ensure financial sustainability; and we make spending decisions that realistically reflect our financial resources and limits	BV Financial Management Toolkit Finance Performance Indicators	Current AIP rating Red
Improvement Lead : Director of Corporate Services			Departmental Support: Schools Manager Community Care Resources Manager Transport Planning Manager Environment & Transport Operations Manager
Responsible Executive Manager : Finance Manager Capital Programme Manager			

IP	2d	Objective	Actions	Timescales / Targets	Outcome /Measures	Progress
6.1	IP1 IP02 IP03 IP04	Lead the development of the 2013/14 Revenue budget with an indicative 2014/15 and 2015/16 budget to supplement this	Liaise with Executive Dirs and Councillors throughout the budget setting process Lead the 2013/14 budget exercise and provide a balanced budget with indicative budgets for 2014/15 and 2015/16.	<ul style="list-style-type: none"> Aug 2012 - Feb 2013 7 Feb 2013 	Have regular meetings with Executive Dirs Hold Member seminars Produce report to Executive/Council setting a balanced budget	A five year Medium Term Financial Plan will be presented to full Council on 20 September 2012. This will set out the level of spending that is sustainable with a view to reaching a level of spend by 2015/16 which does not require unsustainable draws on the Council's reserves. The plan has been built following 3 Council seminars and regular communication with Directors through the Directors for Change group. The plan aligns the available resources to the Council's priorities.

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6.2	IP04 IP05	To review the Council's financial administration arrangements with a view to implementing more efficient and effective working practices across the organisation	<p>Seek to eradicate, insofar as possible, cross-charging across the Council</p> <p>Review arrangements in place for proper authorisation across the Council and seek to introduce Integra's authorisation module.</p> <p>Review arrangements in place around usage of the CHRIS 21 integrated HR and Payroll system to centralise HR/Payroll activity to</p> <p>Review arrangements in place around usage of the purchase and sales ledger for improved, more efficient processes, with best practice spread across all service areas</p> <p>Review arrangements in place around usage of the general ledger across the organisation to centralise financial activity,</p> <p>Seek to reduce the use of manual processes and paper forms and replace with automated and electronic alternatives.</p> <p>Introduce a new budgeting module to improve the process for setting the revenue budgets.</p> <p>Introduce a new fixed asset register that is fit for purpose.</p>	<ul style="list-style-type: none"> 31 March 2013 	<p>Reduce number of cross-departmental journals and implement where necessary annual recharges.</p> <p>Eradicate duplication of effort, provide officer training to achieve "right first time" principle and ensure documents are only held once</p> <p>Streamline financial systems through one provider</p> <p>Reduce administration and associated costs</p>	<p>Finance has taken steps to significantly reduce the number of cross-departmental journals, so that now only those that are entirely necessary are processed. In addition, there has been a significant reduction in the number of virements that are being processed.</p> <p>The Team Leader – Revenues and Benefits and the Payments Manager have been making on-site visits to purchase and sales ledger user groups to understand the different processes currently in place across the organisation. Following this work, a set of proposals will be developed in conjunction with user groups for ensuring that processes are streamlined as much as possible. Internal Audit will be invited to these discussions from a controls point of view.</p> <p>Finance is currently in the processes of procuring the authorisation and budgeting modules and it is planned to have these in place by 31 March 2013.</p> <p>Review and implementation of centralised HR administration processes within North Ness due for completion by end of September 2012.</p>
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6.3		To review the overall structure of the finance department across Revenues and Benefits, Expenditure and Accountancy with a view to strengthening key areas in order to improve the overall financial management arrangements	<p>Ensure the finalisation of, and appointment to, the Team Leader posts with the Finance Service.</p> <p>Put in place a structure that aligns resources to service demand, whilst working within the current available budget and FTE establishment.</p> <p>Ensure that staff receive any training required to work effectively/meet their CPD and Single Status qualification requirements, which is linked to staff/personal development plans. Seek to develop a professional qualification scheme for staff interested in working towards an accountancy qualification.</p>	<ul style="list-style-type: none"> • 31 July 2012 • 31 December 2012 • 31 March 2013 • 31 December 2012 	<p>Finance Team Leaders formally appointed in post</p> <p>Reduction in levels of overtime</p> <p>Ensure resources are available to meet demand</p> <p>Improved perception of the finance department across the Council</p> <p>Staff development plans evidence training undertaken during the year</p> <p>% of unqualified staff undertaking a professional qualification</p>	<p>A restructure of the Finance Service was approved by CMT in June 2012. Work is currently progressing to put this into place. The restructure has sought to ensure that there are sufficient resources in the Accountancy function in order to strengthen overall financial management arrangements.</p> <p>There are currently 3 acting Team Leaders in Finance, with the finalisation of these posts expected in the Autumn.</p> <p>All changes have been delivered within existing FTEs and budget levels.</p>
6.4	IP03 IP04	To Review our Revenue and Capital Management Accounts report to ensure that they provide Councillors and Management with the information that they need to make the best financial decisions possible	<p>Review reports presented to Committees/Council to provide information in the clearest way possible, seeking feedback from Mgrs and Councillors on the style and presentation</p> <p>Clearly highlights the progress being made by each BRO/Directorate with their "Review" and "Assess" savings;</p>	<ul style="list-style-type: none"> • Quarterly 2012/13 	<p>Councillors and management are receiving quality financial information on a regular basis which informs and allows the scrutiny of financial performance.</p>	<p>A review is currently underway as to how Management Accountants use the general ledger to extract information for reporting to managers and Members. The aim is to simplify the process and improve the usefulness of this information.</p> <p>The style of report presented to Members has also changed with the primary focus on forecasting the outturn position as opposed to reflecting on past financial performance.</p>

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6.5		To deliver the agreed savings reviews within the timescales agreed by Council.	All areas of the Council deliver the agreed budget strategy within the timescales.	<ul style="list-style-type: none"> 31st March 2013 with regular progress reporting. 	The savings targets are met.	The Council is progressing with savings work but is still currently behind where it should be at this stage.
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Appendix 1 - IMPROVEMENT PLAN PROGRESS - SEPTEMBER 2012

	Area	Best Value Toolkits / Indicator Guidance	Background / Context
7	We integrate effective workforce planning with our other key planning processes	<u>BV People Management Toolkit</u> <u>Human Resources Indicators</u>	Current AIP rating Amber
Improvement Lead : Director of Children’s Services			Departmental Support: Community Care Resources Manager Director Shetland College Port Operations Manager
Responsible Executive Manager : HR Manager			

IP	2d	Objective	Actions	Timescales / Targets	Outcome /Measures	Progress
7.1		Ensure the Council has a high level workforce strategy in place which provides direction to the delivery of HR services.	Developing and agreeing a people strategy which brings together current and future workforce needs and issues.	<ul style="list-style-type: none"> Updated HR/ Workforce strategy developed and considered by Council by December 2012 	There is a clear overview document, which sets the organisations approach to people management, which supports the delivery of the organisations priorities, goals and plans.	Work underway to deliver on time

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7.2		<p>The organisation has a formally approved approach to developing leadership, management and professional capacity and capability which is linked to recognised competencies and standards.</p>	<p>Leadership and development programme in place from September 2012 onwards.</p> <p>The programme will include;</p> <ul style="list-style-type: none"> 1 – Leadership, Planning and Resource Alignment 2 – Partnerships & Community Planning 3 – Communications 4 – Governance & Accountability 5 – Performance Management & Risk Management 6 – Financial Management 7 – People Management 8 – Asset Management 9 – Procurement 10 – ICT 11 – Sustainability 12 – Equalities 	<ul style="list-style-type: none"> • Leadership and development programme in place from September 2012 onwards. • Formal Employee Review and Development performed at least annually for every member of staff. 	<p>Managers are equipped to tackle the demanding and challenging period ahead with the confidence and the support they need.</p>	<p>Draft Learning and Development programme reported to CMT and further work now underway to explore delivery methods and costs</p>
7.3		<p>Completing the Training Review project and implementing its recommendations.</p>	<p>Training Review project completed by December 2012</p>	<ul style="list-style-type: none"> • Training Review project completed by December 2012 	<p>The Council can show that it has an effective, efficient, consistent and fair approach in place to meet all employees' training requirements.</p>	<p>Progress report to CMT completed and project on target to meet deadline</p>

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7.4		Develop a more effective approach to succession planning	Identifying the people who are willing to undertake training to enhance their future prospects across the council	<ul style="list-style-type: none"> • Learning and Development Programme in place from September 2012 onwards. • Formal Employee Review and Development performed at least annually for every member of staff. • A percentage of the workforce are accessing learning and development through E-learning 	Staff feel encouraged and enabled to undertake development opportunities through the use of IT to maximise career opportunities in development.	Draft Learning and Development programme reported to CMT and further work now underway to explore delivery methods and costs
7.5		Implement the use of the competency framework by embedding it into the updated Employee Review and Development activity.	Updated review and development policy adopted by October 2012. Formal Employee Review and Development performed at least annually for every member of staff in line with new arrangements thereafter.	<ul style="list-style-type: none"> • Updated review and development policy presented to Council by October 2012. • Formal Employee Review and Development performed at least annually for every member of staff in line with new arrangements thereafter. 	We ensure good performance and address the needs of our workforce in a fair manner	Review underway and on target to meet deadline
7.6		Develop a set of people indicators which are measured by Human Resources.	Making sure the right "Council Wide" measures are identified, collected, reported on, monitored and used to inform further planning and development	<ul style="list-style-type: none"> • Delivered through Council Planning and Performance Management Framework as approved by Council in March 2012. • 	Human Resources organisational issues and trends are identified and acted on.	Full set of Measures / Indicators used in SOA / Corporate Plan / Improvement Plan formally agreed by Council in June / July 2012, reporting from October 2012.

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7.7		Make sure that we have staff terms and conditions that reflect the current financial circumstances and identify and deliver efficiencies.	Completing the work of the Efficiency Partnership group	<ul style="list-style-type: none"> Delivered through Employee Partnership Group activity from March 2012 to March 2013 with implementation of any changes to terms and conditions from April 2013. 	The Council has a fair and affordable employee reward structure.	Ongoing
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Appendix 1 - IMPROVEMENT PLAN PROGRESS - SEPTEMBER 2012

	Area	Best Value Toolkits / Indicator Guidance	Background / Context
8	We make the best economic, efficient and effective use of our buildings and physical assets	BV Asset Management Toolkit Estates Management Indicators	Current AIP rating Amber
Improvement Lead : Director of Infrastructure			Departmental Support: Sport & Leisure Manager Occupational Therapy Manager Housing Manager
Responsible Executive Manager : Capital Programme Environment & Transport Operations Manager			

IP	2d	Objective	Actions	Timescales / Targets	Outcome /Measures	Progress
8.1		Make sure the Council has a comprehensive view of its asset needs and how they are to be most effectively delivered.	Continuing to develop and deliver the Asset Strategy, ensuring that the acquisitions, disposals and consolidation of assets detailed in the associated Implementation Plan are delivered sustainably and are aligned with corporate objectives	<ul style="list-style-type: none"> Next operational update of Asset Strategy to Council in June 2012 	Guidance and direction is in place to guide all delivery of asset management services, achieving efficiencies wherever possible.	Asset Strategy and Draft Implementation Plan approved by Council on 8 February 2012. Rationalisation of assets underway, with one property sold and another two to be advertised in early September. Next tranche of disposals to follow completion of office accommodation review – next update to Executive Committee planned for 5 November.
8.2	IPO 8.2	Make sure the Council has consistent, accurate and robust information on it's Assets;	Continuing to review and update the Asset Register, and the Asset Management Plans that are linked to it, for property and non-property assets	<ul style="list-style-type: none"> Next review in September 2012, reported to CMT. 	The Council has a comprehensive and up-to-date database of all its assets for planning and management purposes.	Existing Asset Register to be transferred to Integra by 31 March 2013. Revised register will contain links to individual asset management plans.

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8.3		Ensure the Council takes a long term view of its Asset Investment Plan to achieve the best investment in capital assets to support and cost effective service delivery;	Ensuring that the Gateway process is applied to all capital projects with robust option appraisal, risk analysis and life-cycle costing, and that individual projects are in line with the Council's Budget Plan.	<ul style="list-style-type: none"> Progress reporting to Members each scheduled Council cycle. 	The Council has a fully prioritised, costed and risk assessed Asset Investment Plan for the next 5 years to complement financial, workforce and service delivery plans.	Asset Investment Plan approved by Council on 21 March 2012.
8.4		Make sure that the Council has the appropriate information to determine which of its assets are being used effectively and which are underused or unused	Developing, and further populating, its building maintenance software, based on the council's reporting needs	<ul style="list-style-type: none"> Next review of data capture September 2012. 	The Council can demonstrate that it is getting the best use out of its accommodation, and identify where other use / disposal might be more appropriate.	Updating of Technology Forge software ongoing.
8.5		Make sure that the Council realises financial or other potential for any unused or underused assets	Ensuring that the policy on the disposal of surplus assets, as set out in the Asset Strategy, is applied consistently	<ul style="list-style-type: none"> First Implementation Plan relating to the Asset Strategy to be presented to committee by March 2013. 	The Council can realise income from the sale of unused / underused properties or release them to meet other service demands.	Sale of one property underway. Next two to be advertised in Early September 2012. Asset Enhancement Fund in place to maximise income from the disposal of assets.

Appendix 1 - IMPROVEMENT PLAN PROGRESS - SEPTEMBER 2012

8.6		The Council must ensure that its operational properties have appropriate disabled access	Developing and delivering a programme of Council premises access audits and agreeing and implementing access improvements where relevant	<ul style="list-style-type: none"> Arrangements for the development and agreement of a disabled access improvement programme including monitoring and reporting arrangements to be confirmed by Capital Programme Mgr / Environment & Building Services Mgr in consultation with the Community Planning Mgr who has overall equalities monitoring responsibility. 	The Council can demonstrate that it is meeting equality obligations under the Equality Act and enhancing equalities.	Ongoing.
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Appendix 1 - IMPROVEMENT PLAN PROGRESS - SEPTEMBER 2012

8.7	11 03	Work with community groups to rationalise community resources and improve the standards of remaining facilities to ensure maximum benefit to communities from grant funding available	<p>Build an accessible picture of available community resources e.g. interactive online map</p> <p>Map current use of grant aid, analyse and assess on an area by area basis</p> <p>Engage with community groups</p> <p>Promote external funding opportunities and support applications for external funding</p> <p>Lead and facilitate CEEP scheme</p> <p>Explore pilot of community/sport hub models</p> <p>Provide advice and information to groups to help them self-generate funds and think more like private businesses</p>	Targets to be developed	<p>Reduced reliance on the public sector</p> <p>Decrease the amount of grant aid funding required to support running costs of community facilities, and therefore increase the availability of grant aid funding to a larger number of community groups</p> <p>Increase level of external funding coming into Shetland</p>	icoping work continuing.
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Appendix 1 - IMPROVEMENT PLAN PROGRESS - SEPTEMBER 2012

	Area	Best Value Toolkits / Indicator Guidance	Background / Context
9	We can demonstrate that we meet our supply needs economically and efficiently	<u>BV Procurement Toolkit</u> <u>Procurement Indicators</u>	Current AIP rating Red
Improvement Lead : Director of Corporate Services			Departmental Support: Occupational Therapy Manager Transport Planning Manager Ferry Operations Manager
Responsible Executive Manager : Capital Programme			

IP	2d	Objective	Actions	Timescales / Targets	Outcome /Measures	Progress
9.1	IP09.1	The Council can demonstrate that it meets its supply needs economically and efficiently	Updating the Procurement Strategy, develop and Action Plan and ensure that this is applied consistently	<ul style="list-style-type: none"> Updated Procurement Strategy approved by Members on 21 March 2012. Actions to be reported in line with the timescales set out in the strategy document. 	The Council can demonstrate that it is making savings in the way it buys its goods and services.	Centralised process for procurement of office supplies now well established with savings realised. Workshop held in late June with regional Scotland Excel representative to maximise use of national framework contracts and to gather information for further contract opportunity development. Other commodities are currently being reviewed and progressed for similar development, e.g. marine gas oil, foodstuffs, cleaning products and flooring.
9.2		The Council can demonstrate it has up to date and effective procurement regulations and practices	Updating Standing Orders relating to contracts and procurement.	<ul style="list-style-type: none"> Updated Standing Orders to be reported to Council September 2012. 	The Council can demonstrate it has up to date and effective procurement regulations and practices.	Underway by not yet complete. Revised reporting target December 2012. Scottish Government's Procurement Reform Bill out for consultation. Consultation closes on Friday 2 November 2012. A composite Council response will be submitted by the deadline.

Appendix 1 - IMPROVEMENT PLAN PROGRESS - SEPTEMBER 2012

9.3		The Council needs to exploit any partnership opportunities to deliver more cost effective procurement	Collaboration with public sector partner organisations thereby taking advantage of combined/ optimum purchasing arrangements where possible.	<ul style="list-style-type: none"> Reviews will be determined as best practice for the procurement of each commodity is explored in line with the Procurement Strategy. 	The Council can demonstrate how it is working with its partners to maximise efficiencies in procurement and delivering cost savings.	<p>Implementation of a collaborative framework contract for Aids for Daily Living with Western Isles Council, where SIC acted as lead, almost complete.</p> <p>New procurement exercise for the delivery of inter-island air service currently underway working closely with Orkney Islands Council.</p> <p>Raising awareness of Scotland Excel and other Category A contract opportunities with service areas is ongoing.</p> <p>Utilisation of the Highlands & Islands Consultancy Services Framework.</p> <p>Council membership of the North Territory Hub approved by Council in early 2012.</p>
9.4		Staff involved in procurement need the right skills and understanding to improve performance	Train relevant staff across the Council, to enhance the levels of understanding and usage of e-procurement / Scotland Excel etc.	<ul style="list-style-type: none"> Part of learning and development programme from September 2012. Procurement staff within Capital Programme Service working towards formal qualifications through Chartered Institute of Purchasing and Supply. 	Staff are aware of their responsibilities to procure goods and services as efficiently as possible and the ways of achieving this	<p>Procurement staff undertaking formal programme of training and/or qualification review.</p> <p>Council wide training skills gap to be progressed via online questionnaire during autumn 2012.</p>
9.5	IP10	The Council needs to make sure it is using its ICT systems to best effect to make ordering and payment quick and cost effective	Ensure that Integra capabilities are fully utilised and that the use of alternative systems are assessed to improve electronic ordering and associated administration	<ul style="list-style-type: none"> Arrangements for the full exploitation of ICT systems to support efficient procurement, including monitoring and reporting arrangements to be established by December 2012. 	The Council is getting the best price and reducing administration time and effort	Initial review meetings have been held between procurement section staff and the Payments Manager. It is anticipated that this will be further developed for consideration by senior management in October 2012.

Appendix 1 - IMPROVEMENT PLAN PROGRESS - SEPTEMBER 2012

9.6	IP2.5 2.6 2.7 9.3	Collaborative construction procurement which realises "economy of scale" benefits with NHS Shetland	Put in place joint NEC3 Term Service Contract Arrangements	<ul style="list-style-type: none"> • NEC3 TSC for shared maintenance services April 2013 	Reduced maintenance unit costs for the Council and improved service delivery	Some contract opportunities where NEC3 may be utilised have been identified. Others shall be identified and considered with relevant services where agreed as an appropriate alternative.
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Appendix 1 - IMPROVEMENT PLAN PROGRESS - SEPTEMBER 2012

	Area	Best Value Toolkits / Indicator Guidance	Background / Context
10	We have secure, efficient and cost effective information and communication systems and processes that support service delivery	<u>Information Management</u> <u>Information Technology</u>	Current AIP rating Green
Improvement Lead : Director of Development			Departmental Support: Criminal Justice Manager Roads Manager
Responsible Executive Manager : ICT Manager			

IP	2d	Objective	Actions	Timescales / Targets	Outcome /Measures	Progress
10.1		We have secure, efficient and cost effective information and communication systems and processes that support service delivery	Developing and Implementing the Councils ICT Strategy to make sure that the Council has a comprehensive view of ICT development to support service delivery, maintain secure and efficient systems and data and meet upcoming opportunities and issues.	<ul style="list-style-type: none"> Reported to and monitored by the ICT Management Board 	The Council is able to demonstrate that it has a structured approach to managing information across service areas and a forward view of ICT requirements and costs that complement Financial, Workforce, Asset and Service Delivery medium term strategies.	ICT Strategy Information gathering completed August 2012, report to Council on 5 th December 2012.
10.2	IP10	Ensure ICT developments for improved service, improved efficiency and reduced bureaucracy are delivered	Considered technology options within all relevant service reviews, all departmental and service planning and all efficiency activity	<ul style="list-style-type: none"> Delivered through review programme, departmental and Service planning and ICT strategy. And use of PRINCE project management methodology. 	The Council is making the most of any improvement opportunities available via new technology.	Ongoing as part of ICT strategy

Appendix 1 - IMPROVEMENT PLAN PROGRESS - SEPTEMBER 2012

10.3		Establish more effective technical links with NHS Shetland and other partners	Developing further co-operative joint working arrangements	<ul style="list-style-type: none"> Delivered through ICT Strategy reporting to ICT Management Board 	ICT Strategy is aligned with the SOA and new technology is being introduced to support its delivery across Community Planning Partners.	Ongoing as part of ICT strategy
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	Area	Best Value Toolkits / Indicator Guidance	Background / Context
11	We have sustainability embedded in our vision and make sure we use resources sustainably	BV Sustainability Toolkit	Current AIP rating Green
Improvement Lead : Director of Community Care			Departmental Support: Capital Programme Manager
Responsible Executive Manager : Community Planning and Development Environment & Transport Operations Planning Manager			

IP	2d	Objective	Actions	Timescales / Targets	Outcome /Measures	Progress
11.1		Support Shetland Partnership to deliver on the sustainability aspects of Community Plan	Promote Community Plan with partners, and work with partners to ensure buy in Raise awareness within the community and with partners of the work of the Shetland Partnership through regular and effective communication Develop consistent reporting arrangements on progress to the Board	<ul style="list-style-type: none"> March 2013 	Delivery on first year targets in the Single Outcome Agreement	Shetland Partnership Board minutes now available on COINS

Appendix 1 - IMPROVEMENT PLAN PROGRESS - SEPTEMBER 2012

11.2	IP8 8.1 8.2 8.3	Set and deliver clear sustainability priorities	Developing and delivering arrangements in the Councils Sustainability, Carbon Management, Waste Management plans and strategies.	<ul style="list-style-type: none"> Implement ISO 14001 Environmental management systems April 2013 	Estate maintenance meets client needs and achieves desired outcomes at minimum cost to the tax payer	Carbon Management development plan proceeding.
11.3	13	The development of long term maintenance strategies based on sustainable use of physical resources and whole life costing	Working closely with the Maintenance Section, public utilities etc to prepare longer term programmes for planned maintenance	<ul style="list-style-type: none"> Complete 3 year programmes for planned maintenance works / January 2013 	That maintenance of the public road is better co-ordinated and costly delays and duplication of work are avoided	Work proceeding to target

Appendix 1 - IMPROVEMENT PLAN PROGRESS - SEPTEMBER 2012

	Area	Best Value Toolkits / Indicator Guidance	Background / Context
12	We lead equality improvements, provides equality of opportunity and fair outcomes	BV Equalities Toolkit	Current AIP rating Green
Improvement Lead : Director of Community Care			Departmental Support: Environmental Health & Trading Standards Manager
Responsible Executive Manager : Community Planning and Development Human Resources			

IP	2d	Objective	Actions	Timescales / Targets	Outcome /Measures	Progress
12.1		Employment monitoring information covering the whole workforce will be routinely analysed by members and officers and action will be taken across the organisation to reduce inequality.	Ensuring we regularly collate, scrutinise and report on workforce profile data and ensure Equality Impact Assessments are completed for all new strategies and policies	<ul style="list-style-type: none"> Delivered through Council Planning and Performance Management Framework as approved by Council in March 2012. Statutory Performance Indicators reported annually . 	There is greater understanding and debate around equality issues to support decision making.	Equalities Group established and work underway to review existing arrangements and develop Equalities Action Plan

Appendix 1 - IMPROVEMENT PLAN PROGRESS - SEPTEMBER 2012

12.2		Support Shetland Partnership to deliver on the Community Plan equalities actions and objectives.	Promote Community Plan with partners, and work with partners to ensure buy in Raise awareness within the community and with partners of the work of the Shetland Partnership through regular and effective communication Develop consistent reporting arrangements on progress to the Board	<ul style="list-style-type: none"> March 2013 	Delivery on first year targets in the Single Outcome Agreement.	Community Plan has been approved by all partners within Shetland Partnership Community Plan will be launched at a summit in Oct / Nov
12.3	2 9 11	Enhance the approaches to learner engagement and the student voice.	Enhance the approaches to learner engagement and the student voice.	<ul style="list-style-type: none"> 	Enhance the approaches to learner engagement and the student voice.	Update to be confirmed
12.4		Implement new equalities legislation and monitor compliance across the Council	Develop equality outcomes for Shetland and plan for implementation	March 2013	Equality mainstreamed within SOA	Equality Impact Assessment briefing note issued to Directors and Executive Managers

Appendix 2 - Organisation of Improvement Plan Management

Improvement Area	Lead Director	Operational Lead(s)	Departmental Support
1. The Council has a clear vision and sense of purpose which reflects local needs and we can demonstrate linked-up strategic planning and resourcing to deliver that vision	Chief Exec	Peter Peterson John Smith Vaila Simpson	Audrey Edwards Jeff Shaw Phil Crossland
2. The Council gives strong community leadership and delivers improvement with its partners; and we engage effectively with communities in understanding their needs and in making decisions	Children's Services	Vaila Simpson	Denise Morgan John Smith Maggie Dunne
3. The Council provides good quality information to deliver effective public accountability	Development	Peter Peterson	Karen Fraser Jeff Shaw Ken Duerden Stuart Moncrieff
4. We ensure the Council exhibits good governance and maintains strong internal accountability	Corporate	Jan Riise Peter Peterson James Gray Crawford Macintyre	Hughina Leslie Sally Shaw
5. We have a strong improvement led and performance driven culture and systems and we have a systematic approach to identify risk and develop effective responses	Infrastructure	John Smith Jan Riise Crawford MacIntyre	Martha Nicolson Sally Shaw
6. The Council has robust financial management arrangements that ensure financial sustainability; and we make spending decisions that realistically reflect our financial resources and limits	Corporate	James Gray Robert Sinclair	Shona Thompson Ruby Whelan Michael Craigie Stephen Cooper

Appendix 2 - Organisation of Improvement Plan Management

Improvement Area	Lead Director	Operational Lead(s)	Departmental Support
7. The Council integrates effective workforce planning with its strategic processes	Children's Services	Denise Bell	Ruby Whelan David Gray Jonathan Emptage
8. We make the best economic, efficient and effective use of our buildings and physical assets	Infrastructure	Robert Sinclair Carl Symonds	Neil Watt Jo Robinson Anita Jamieson
9. The Council can demonstrate that it meets its supply needs economically and efficiently	Corporate	Robert Sinclair	Jo Robinson Michael Craigie Ken Duerden
10. We have secure information and communication systems that support service delivery	Development	Stuart Moncrieff	Denise Morgan Dave Coupe
11. The Council has sustainability embedded in its vision and ensures we use resources sustainably	Community Care	Inf - Vaila Simpson	Robert Sinclair
12. We lead equality improvements, provides equality of opportunity and fair outcomes	Community Care	Vaila Simpson Denise Bell	Maggie Dunne

**Shetland Islands Council****20 September 2012****Graduate Placement Scheme 2012/13****HR-30-F****Report Presented by Executive Manager -
Human Resources****Corporate Services****1.0 Summary**

- 1.1 The purpose of this report is to seek approval by Shetland Islands Council to suspend the recruitment of Graduate Placements for 2012/13 in order to help the Council achieve the savings required for this financial year.

2.0 Decision Required

- 2.1 That the Council RESOLVES to suspend the Graduate Placement Scheme recruitment exercise for 2012/13.

3.0 Detail

- 3.1 The Council's Graduate Placement Scheme has been in place since 2000 and has been highly successful in attracting recent graduates to Shetland Islands Council. The purpose of the Graduate Placement Scheme (GPS) is to provide work experience and development opportunities to enhance an individuals potential and career opportunities.
- 3.2 The Scheme has undergone several changes during that time, moving from originally taking on 12 graduates for 12 months to now taking on 6 graduates each taking on two, six month projects with two graduates sharing working on the Learning School project. However, throughout those changes, the fundamental principle of the Scheme to provide experience and development to the graduates has not changed.
- 3.3 This reduction from 12 to 6 was made in 2011 as part of the savings needed for 2010/11.
- 3.4 Each year, Managers are invited to submit project proposals for a graduate to complete and these projects are generally pieces of work

that the service either would like to do or needs to do but has been unable to deliver due to the pressures of delivering essential services.

- 3.5 The Graduate Placement Scheme was offered as a potential saving during the efficiencies and savings proposals put forward for consideration by the Council in February this year. The Council did not accept that proposal.
- 3.6 Earlier this year, as part of the on-going monitoring of the Council's work to ensure the delivery of the £15.4m savings target and the projected shortfall in savings of £2.6m, all Directors needed to explore alternatives to identify further savings. In light of the growing pressure to reduce staff costs council-wide, the cost of the scheme this year at £143k was identified as a potential further saving for the Council.
- 3.7 This proposal has been supported by Corporate Management Team and has been brought to the attention of Senior Elected Members as it represents a material change in circumstances.
- 3.8 Whilst there is complete agreement amongst senior officers that the Scheme is well regarded and valued by the graduates, the Council and the community, it is also acknowledged that at a time when many council staff feel vulnerable and insecure in their long term employment prospects, taking on graduate placements this year would be difficult to justify.
- 3.9 The Graduate Placement Scheme is discretionary in nature. One of the Council's main priorities is to support and protect the most vulnerable and disadvantaged in our community. The suspension of the scheme will not have a detrimental impact on our ability to fulfil our statutory obligations in this area and will help ensure that finances are focussed on delivering our main duties.

4.0 Implications

Strategic

- 4.1 Delivery on Corporate Priorities – The Council's target for financial savings was agreed in February 2012.
- 4.2 Community /Stakeholder Issues – This years Scheme was advertised in July 2012 attracting 53 applications, all of whom have been notified that the Scheme has been put on hold due to the pressures on the Council's budget this year.
- 4.3 Policy And/Or Delegated Authority – The Executive Committee has delegated authority to determine matters relating to staffing and organisational development in accordance with the Scheme of Delegations, but that given the unavoidable delays in preparing this report, with the approval of the Leader and Convener, the report is being presented directly to the Council for a decision.

- 4.4 Risk Management – Not recruiting graduates means that there is a risk that the Council will be unable to deliver some projects that have the potential to develop services. This would also mean that 6 graduates that the Scheme would employ might not move to Shetland. There is also a risk to the employee relations across the Council by recruiting to the GPS at a time when staff feel vulnerable with the pressure to reduce staffing costs. Failure to reduce the net ongoing running costs of the Council carries a significant risk of the Council's financial policies not being adhered to and will require a further draw on Reserves.
- 4.5 Equalities, Health and Human Rights – NONE.
- 4.6 Environmental – NONE

Resources

- 4.7 Financial – The cost of 6 full-time Graduate Placements is £143k per annum and the proposal in this report would result in a saving of £143k for the year of suspension.

The Council set a budget on 9 February 2012 which included savings of £15.4m to meet the Council's objective of reducing General Fund expenditure to £119.9m in 2012/13, in order to move the Council towards a position of financial sustainability. To date savings of approximately £8m have been identified with a further £7.4m still outstanding.

- 4.8 Legal – NONE
- 4.9 Human Resources – NONE
- 4.10 Assets and Property – NONE

5.0 Conclusions

- 5.1 The Graduate Placement Scheme has been in place since 2000 and provides opportunities for experience and development opportunities to recent graduates. Whilst there is complete agreement in the success of the scheme and the value for those who take part as well as for the Council and Shetland, the need for the Council to deliver its challenging savings targets is seen as the greater need at this time.

For further information please contact:
Denise Bell, Executive Manager Human Resources
Tel: 01595 744577, denise.bell@shetland.gov.uk
Insert Date report was finalised

END

**Shetland Islands Council****20 September 2012****SIC Complaints Handling Procedure**

GL-87-12-F

Executive Manager – Governance & Law**Corporate Services****1.0 Summary**

- 1.1 This report presents an updated Complaints Handling Procedure for Shetland Islands Council developed in line with the model local authority complaints arrangements developed by the Scottish Public Service Ombudsman for approval by Council.

2.0 Decisions Required

The Council is asked to

- 2.1 Approve the Complaints Handling Procedure attached as appendix 1;
- 2.2 Delegate Authority to the Director of Corporate Service to implement the new procedure with associated publicity, customer information, internal systems and staff training, reporting plans and progress to the Executive Committee.

3.0 Detail

- 3.1 Our new complaints handling procedure reflects Shetland Islands Council's commitment to valuing complaints. It seeks to resolve customer dissatisfaction as close as possible to the point of service delivery and to conduct thorough, impartial and fair investigations of customer complaints so that, where appropriate, we can make evidence-based decisions on the facts of the case.
- 3.2 The underlying model for this procedure has been developed by local government complaints handling experts working closely with the Scottish Public Services Ombudsman (SPSO). This procedure aims to help us 'get it right first time'. We want quicker, simpler and more streamlined complaints handling with local, early resolution by capable, well-trained staff.
- 3.3 Complaints give us valuable information we can use to improve customer satisfaction. Our complaints handling procedure will enable

us to address a customer's dissatisfaction and may also prevent the same problems that led to the complaint from happening again. For our staff, complaints provide a first-hand account of the customer's views and experience, and can highlight problems we may otherwise miss. Handled well, complaints can give our customers a form of redress when things go wrong, and can also help us continuously improve our services.

- 3.4 Resolving complaints early saves money and creates better customer relations. Sorting them out as close to the point of service delivery as possible means we can deal with them locally and quickly, so they are less likely to escalate to the next stage of the procedure. Complaints that we do not resolve swiftly can greatly add to our workload.
- 3.5 The complaints handling procedure will help us do our job better, improve relationships with our customers and enhance public perception of the local authority. It will help us keep the user at the heart of the process, while enabling us to better understand how to improve our services by learning from complaints.

4.0 Implications

Strategic

- 4.1 Delivery On Corporate Priorities – Effective complaints management arrangements form an important element of customer care, governance, performance management and learning and improvement all of which are important components of the Councils Improvement Plan.
- 4.2 Community /Stakeholder Issues – NONE
- 4.3 Policy And/Or Delegated Authority –
 - 4.3.1 The Councils constitution – Part A Governance - specifies the Executive Committee as the managing body for Complaints Management but decision making responsibility in terms of the structure of the scheme is reserved to the full Council. A decision of Council is therefore required to adopt a new Complaints handling procedure.
- 4.4 Risk Management – Failure to manage complaints effectively can result in low customer satisfaction and a failure to learn and improve. It also increases the risk of the Council working inefficiently and being subject to further negative external scrutiny.
- 4.5 Equalities, Health And Human Rights – NONE
- 4.6 Environmental – NONE

Resources

- 4.7 Financial – Implementing the new Complaints Procedure will be done within previously approved budgets.

4.8 Legal – NONE

4.9 Human Resources - NONE

4.10 Assets And Property – NONE

5.0 Conclusions

5.1 The Council is required to have an up to date and effective Complaints Management Procedure in line with model best practice. Adopting the attached procedure will meet those requirements and assist in complaints being effectively managed and used as a performance management and learning opportunity.

For further information please contact:

Jan Riise – Executive Manager – Governance and Law

01595 744551

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13/09/2012

Links to Background documents:

Appendix 1 – Shetland Islands Council – Complaints Handling Procedure

Shetland Islands Council Complaints Handling Procedure

September 2012

Shetland Islands Council Complaints Handling Procedure

Foreword

Our complaints handling procedure reflects Shetland Islands Council's commitment to valuing complaints. It seeks to resolve customer dissatisfaction as close as possible to the point of service delivery and to conduct thorough, impartial and fair investigations of customer complaints so that, where appropriate, we can make evidence-based decisions on the facts of the case.

The procedure is based on the model developed by local government complaints handling experts working closely with the Scottish Public Services Ombudsman (SPSO). This procedure aims to help us 'get it right first time'. We want quicker, simpler and more streamlined complaints handling with local, early resolution by capable, well-trained staff.

Complaints give us valuable information we can use to improve customer satisfaction. Our complaints handling procedure will enable us to address a customer's dissatisfaction and may also prevent the same problems that led to the complaint from happening again. For our staff, complaints provide a first-hand account of the customer's views and experience, and can highlight problems we may otherwise miss. Handled well, complaints can give our customers a form of redress when things go wrong, and can also help us continuously improve our services.

Resolving complaints early saves money and creates better customer relations. Sorting them out as close to the point of service delivery as possible means we can deal with them locally and quickly, so they are less likely to escalate to the next stage of the procedure. Complaints that we do not resolve swiftly can greatly add to our workload.

The complaints handling procedure will help us do our job better, improve relationships with our customers and enhance public perception of the local authority. It will help us keep the user at the heart of the process, while enabling us to better understand how to improve our services by learning from complaints.

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How to use this Complaints Handling Procedure

This document explains to staff how to handle complaints. Another document provides information for customers on the complaints procedure. Together, these form our complaints handling procedure.

It is designed to be an internal document for each local authority to adopt. It contains references and links to more details on parts of the procedure, such as how to record complaints, and the criteria for signing off and agreeing time extensions. These explain how to process, manage and reach decisions on different types of complaints. The language used reflects its status as an internal document. So 'we' refers to the local authority, not the SPSO.

When using this document, please also refer to the 'SPSO Statement of Complaints Handling Principles' and best practice guidance on complaints handling from the Complaints Standards Authority at the SPSO.

<http://www.valuingcomplaints.org.uk>

What is a complaint?

Shetland Islands Council's definition of a complaint is:

'An expression of dissatisfaction by one or more members of the public about the local authority's action or lack of action, or about the standard of service provided by or on behalf of the local authority.'

A complaint may relate to:

- failure to provide a service
- inadequate standard of service
- dissatisfaction with local authority policy
- treatment by or attitude of a member of staff
- disagreement with a decision where the customer cannot use another procedure (for example an appeal) to resolve the matter
- the local authority's failure to follow the appropriate administrative process.

This list does not cover everything.

[Appendix 1](#) provides a range of examples of complaints we may receive, and how these may be handled.

A complaint is **not**:

- a routine first-time request for a service
- a request for compensation only
- issues that are in court or have already been heard by a court or a tribunal
- disagreement with a decision where a statutory right of appeal exists, for example in relation to council tax or planning
- an attempt to reopen a previously concluded complaint or to have a complaint reconsidered where we have already given our final decision.

You must not treat these issues as complaints, and should instead direct customers to use the appropriate procedures.

[Appendix 2](#) gives more examples of 'what is not a complaint' and how to direct customers appropriately.

Handling anonymous complaints

We value all complaints. This means we treat all complaints including anonymous complaints seriously and will take action to consider them further, wherever this is appropriate. Generally, we will consider anonymous complaints if there is enough information in the complaint to enable us to make further enquiries. If, however, an anonymous complaint does not provide enough information to enable us to take further action, we may decide not to pursue it further. Any decision not to pursue an anonymous complaint must be authorised by a senior manager.

If an anonymous complaint makes serious allegations, we will refer it to a senior officer immediately.

If we pursue an anonymous complaint further, we will record the issues as an anonymous complaint on the complaints system. This will help to ensure the completeness of the complaints data we record and allow us to take corrective action where appropriate.

What if the customer does not want to complain?

If a customer has expressed dissatisfaction in line with our definition of a complaint but does not want to complain, tell them that we do consider all expressions of dissatisfaction, and that complaints offer us the opportunity to improve services where things have gone wrong. Encourage the customer to submit their complaint and allow us to deal with it through the complaints handling procedure. This will ensure that the customer is updated on the action taken and gets a response to their complaint.

If, however, the customer insists they do not wish to complain, record the issue as an anonymous complaint. This will ensure that the customer's details are not recorded on the complaints database and that they receive no further contact about the matter. It will also help to ensure the completeness of the complaints data recorded and will still allow us to fully consider the matter and take corrective action where appropriate.

Please refer to the example in [Appendix 1](#) for further guidance.

Who can make a complaint?

Anyone who receives, requests or is affected by our services can make a complaint. Sometimes a customer may be unable or reluctant to make a complaint on their own. We will accept complaints brought by third parties as long as the customer has given their personal consent.

Complaints involving more than one service or organisation

If a complaint relates to the actions of two or more local authority services, you must tell the customer who will take the lead in dealing with the complaint, and explain that they will get only one response covering all issues raised.

If a customer complains to the local authority about the service of another agency or public service provider, but the local authority has no involvement in the issue, the customer should be advised to contact the appropriate organisation directly. However, where, a complaint relates to a local authority service and the service of another agency or public service provider, (for example a housing association or a government department), and the local authority has a direct interest in the issue, you must handle the complaint about the local authority through the CHP. If you need to make enquiries to an outside agency in relation to the complaint always take account of data protection legislation and our guidance on handling our customer's personal information. The Information Commissioner has detailed guidance on data sharing and has issued a data sharing code of practice.

Such complaints may include:

- a complaint made to us about a claim for housing benefit where the customer's dissatisfaction relates to the service we have provided and the service the DWP has provided
- a complaint made to us about antisocial behaviour where the customer's dissatisfaction relates to the service we have provided and the service the housing association has provided.

Social work complaints

The procedure for social work complaints is slightly different from our general complaints procedure, as it currently follows specific legislation and guidance. This legislation and guidance is being reviewed by the Scottish Government. In due course, SPSO will inform us about any changes to the procedure.

You can find more about how to handle a complaint about social work services here.

http://www.shetland.gov.uk/community_care/

Care complaints

Local authorities that provide care services must be registered with the Care Inspectorate. Anyone receiving care services from us has the right to complain either direct to the Care Inspectorate or to us.

Customers may also receive care or support from other agencies under a contract with us. They may direct complaints about these services either to us (just like complaints about any local authority service) or directly to the Care Inspectorate.

The Care Inspectorate's contact details can be found on their website:

<http://www.scswis.com/>

Or:

telephone 0845 600 9527

fax 01382 207 289

complete an online complaints form at <http://www.scswis.com>, or

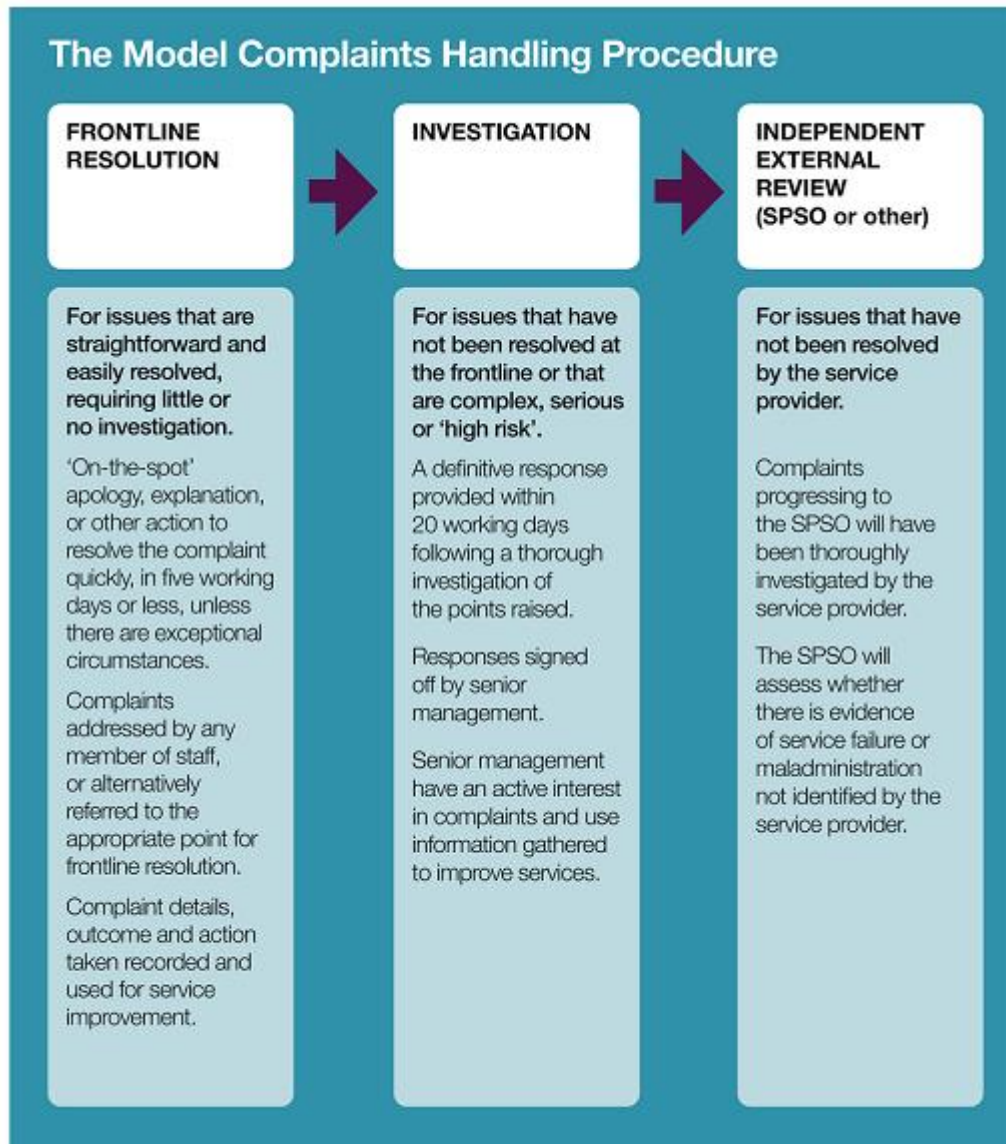
email enquiries@careinspectorate.com

The complaints handling process

Our complaints handling procedure aims to provide a quick, simple and streamlined process for resolving complaints early and locally by capable, well-trained staff.

Our complaints process provides two opportunities to resolve complaints internally:

- **frontline resolution**, and
- **investigation**.



For clarity, the term 'frontline resolution' refers to the first stage of the complaints process. It does not reflect any job description within *[the local authority]* but means seeking to resolve complaints at the initial point of contact where possible.

Stage one: frontline resolution

Frontline resolution aims to quickly resolve straightforward customer complaints that require little or no investigation. Any member of staff may deal with complaints at this stage.

The main principle is to seek early resolution, resolving complaints at the earliest opportunity and as close to the point of service delivery as possible. This may mean a face-to-face discussion with the customer, or asking an appropriate member of staff to deal directly with the complaint.

Appendix 1 gives examples of the types of complaint we may consider at this stage, with suggestions on how to resolve them.

In practice, frontline resolution means resolving the complaint at the first point of contact with the customer, either by the member of staff receiving the complaint or other identified staff.

In either case, you may settle the complaint by providing an on-the-spot apology where appropriate, or explaining why the issue occurred and, where possible, what will be done to stop this happening again. You may also explain that, as an organisation that values complaints, we may use the information given when we review service standards in the future.

A customer can make a complaint in writing, in person, by telephone, by email or online, or by having someone complain on their behalf. You must always consider frontline resolution, regardless of how you have received the customer's complaint.

What to do when you receive a complaint

- 1 On receiving a complaint, you must first decide whether the issue can indeed be defined as a complaint. The customer may express dissatisfaction about more than one issue. This may mean you treat one element as a complaint, while directing the customer to pursue another element through an alternative route (see **Appendix 2**).
- 2 If you have received and identified a complaint, record the details on our complaints system.
- 3 Next, decide whether or not the complaint is suitable for frontline resolution. Some complaints will need to be fully investigated before you can give the customer a suitable response. You must escalate these complaints immediately to the investigation stage.
- 4 Where you think frontline resolution is appropriate, you must consider four key questions:
 - What exactly is the customer's complaint (or complaints)?
 - What does the customer want to achieve by complaining?
 - Can I achieve this, or explain why not?
 - If I cannot resolve this, who can help with frontline resolution?

What exactly is the customer's complaint (or complaints)?

It is important to be clear about exactly what the customer is complaining of. You may need to ask the customer for more information and probe further to get a full picture.

What does the customer want to achieve by complaining?

At the outset, clarify the outcome the customer wants. Of course, the customer may not be clear about this, and you may need to probe further to find out what they expect, and whether they can be satisfied.

Can I achieve this, or explain why not?

If you can achieve the expected outcome by providing an on-the-spot apology or explain why you cannot achieve it, you should do so. If you consider an apology is appropriate, you may wish to follow the SPSO's guidance on the subject:

SPSO guidance on apology

The customer may expect more than we can provide. If so, you must tell them as soon as possible. An example would be where the customer is so dissatisfied with a kitchen refurbishment that they demand a new kitchen, but we are only willing to repair any broken units.

You are likely to have to convey the decision face to face or on the telephone. If you do so face to face, by telephone or by email, you are not required to write to the customer as well, although you may choose to do so. It is important, however, to keep a full and accurate record of the decision reached and passed to the customer.

If I can't resolve this, who can help with frontline resolution?

If you cannot deal with the complaint because, for example, you are unfamiliar with the issues or area of service involved, pass details of the complaint to someone who can attempt to resolve it.

Timelines

Frontline resolution must be completed within **five working days**, although in practice we would often expect to resolve the complaint much sooner.

You may need to get more information from other services to resolve the complaint at this stage. However, it is important to respond to the customer within five working days, either resolving the matter or explaining that their complaint is to be investigated.

Extension to the timeline

In exceptional circumstances, where there are clear and justifiable reasons for doing so, you may agree an extension of no more than five working days with the customer. This must only happen when an extension will make it more likely that the complaint will be resolved at the frontline resolution stage.

When you ask for an extension, you must get authorisation from the appropriate senior manager, who will decide whether you need an extension to effectively resolve the complaint. Examples of when this may be appropriate include staff or contractors being temporarily unavailable. If, however, the issues are so complex that they cannot be resolved in five days, it may be more

appropriate to escalate the complaint straight to the investigation stage. You must tell the customer about the reasons for the delay, and when they can expect your response.

If the customer does not agree to an extension but it is unavoidable and reasonable, a senior manager must decide on the extension. You must then tell the customer about the delay and explain the reason for the decision to grant the extension.

It is important that such extensions do not become the norm. Rather, the timeline at the frontline resolution stage should be extended only rarely. All attempts to resolve the complaint at this stage must take no longer than **ten working days** from the date you receive the complaint.

The proportion of complaints that exceed the five-day limit will be evident from reported statistics. These statistics must go to our senior management team on a quarterly basis.

Appendix 3 provides further information on timelines.

Closing the complaint at the frontline resolution stage

When you have informed the customer of the outcome, you are not obliged to write to the customer, although you may choose to do so. You must ensure that our response to the complaint addresses all areas that we are responsible for and explains the reasons for our decision. It is also important to keep a full and accurate record of the decision reached and given to the customer. The complaint should then be closed and the complaints system updated accordingly.

When to escalate to the investigation stage

A complaint must be escalated to the investigation stage when:

- frontline resolution was tried but the customer remains dissatisfied and requests an investigation into the complaint. This may be immediately on communicating the decision at the frontline stage or could be some time later
- the customer refuses to take part in the frontline resolution process
- the issues raised are complex and require detailed investigation
- the complaint relates to serious, high-risk or high-profile issues.

When a previously closed complaint is escalated from the frontline resolution stage, the complaint should be reopened on the complaints system.

Take particular care to identify complaints that might be considered serious, high risk or high profile, as these may require particular action or raise critical issues that need senior management's direct input. The SPSO defines potential high-risk or high-profile complaints as those that may:

- involve a death or terminal illness
- involve serious service failure, for example major delays in providing, or repeated failures to provide, a service
- generate significant and ongoing press interest
- pose a serious risk to local authority operations
- present issues of a highly sensitive nature, for example concerning:

- immediate homelessness
- a particularly vulnerable person
- child protection.

Stage two: investigation

Not all complaints are suitable for frontline resolution and not all complaints will be satisfactorily resolved at that stage. Complaints handled at the investigation stage of the complaints handling procedure are typically complex or require a detailed examination before we can state our position. These complaints may already have been considered at the frontline resolution stage, or they may have been identified from the start as needing immediate investigation.

An investigation aims to establish all the facts relevant to the points made in the complaint and to give the customer a full, objective and proportionate response that represents our final position.

What to do when you receive a complaint for investigation

It is important to be clear from the start of the investigation stage exactly what you are investigating, and to ensure that both the customer and the service understand the investigation's scope.

It may be helpful to discuss and confirm these points with the customer at the outset, to establish why they are dissatisfied and whether the outcome they are looking for sounds realistic. In discussing the complaint with the customer, consider three key questions:

1. What specifically is the customer's complaint or complaints?
2. What does the customer want to achieve by complaining?
3. Are the customer's expectations realistic and achievable?

It may be that the customer expects more than we can provide. If so, you must make this clear to the customer as soon as possible.

Where possible you should also clarify what additional information you will need to investigate the complaint. The customer may need to provide more evidence to help us reach a decision.

Details of the complaint must be recorded on the system for recording complaints. Where appropriate, this will be done as a continuation of frontline resolution. The details must be updated when the investigation ends.

If the investigation stage follows attempted frontline resolution, you must hand over all case notes and associated information to the officer responsible for the investigation, and record that you have done so.

Timelines

The following deadlines are appropriate to cases at the investigation stage:

- complaints must be acknowledged within **three working days**
- you should provide a full response to the complaint as soon as possible but not later than **20 working days** from the time you received the complaint for investigation.

Extension to the timeline

Not all investigations will be able to meet this deadline. For example, some complaints are so complex that they require careful consideration and detailed investigation beyond the 20-day limit.

However, these would be the exception and you must always try to deliver a final response to a complaint within 20 working days.

If there are clear and justifiable reasons for extending the timescale, senior management will set time limits on any extended investigation, as long as the customer agrees. You must keep the customer updated on the reason for the delay and give them a revised timescale for completion. If the customer does not agree to an extension but it is unavoidable and reasonable, then senior management must consider and confirm the extension. The reasons for an extension might include the following:

- Essential accounts or statements, crucial to establishing the circumstances of the case, are needed from staff, customers or others but they cannot help because of long-term sickness or leave.
- You cannot obtain further essential information within normal timescales.
- Operations are disrupted by unforeseen or unavoidable operational circumstances, for example industrial action or severe weather conditions.
- The customer has agreed to mediation as a potential route for resolution.

These are only a few examples, and you must judge the matter in relation to each complaint. However, an extension would be the exception and you must always try to deliver a final response to the complaint within 20 working days.

As with complaints considered at the frontline stage, the proportion of complaints that exceed the 20-day limit will be evident from reported statistics. These statistics must go to our senior management team on a quarterly basis.

[Appendix 3](#) provides further information on timelines.

Mediation

Some complex complaints, or complaints where customers and other interested parties have become entrenched in their position, may require a different approach to resolving the complaint. Where appropriate, you may consider using services such as mediation or conciliation using suitably trained and qualified mediators to try to resolve the matter and to reduce the risk of the complaint escalating further.

Mediation will help both parties to understand what has caused the complaint, and so is more likely to lead to mutually satisfactory solutions.

If you and the customer agree to mediation, revised timescales will need to be agreed.

Closing the complaint at the investigation stage

You must let the customer know the outcome of the investigation, in writing or by their preferred method of contact. Our response to the complaint must address all areas that we are responsible for and explain the reasons for our decision. You must record the decision, and details of how it was communicated to the customer, on the system for recording complaints. You must also make clear to the customer:

- their right to ask SPSO to consider the complaint
- the time limit for doing so, and
- how to contact the SPSO.

Independent external review

Once the investigation stage has been completed, the customer has the right to approach the SPSO if they remain dissatisfied.

The SPSO considers complaints from people who remain dissatisfied at the conclusion of our complaints procedure. The SPSO looks at issues such as service failures and maladministration (administrative fault), as well as the way we have handled the complaint.

The SPSO recommends that you use the wording below to inform customers of their right to ask SPSO to consider the complaint. The SPSO also provides a leaflet, [The Ombudsman and your organisation](#), which you may find helpful in deciding how and when to refer someone to the SPSO.

Information about the SPSO

The Scottish Public Services Ombudsman (SPSO) is the final stage for complaints about public services in Scotland. This includes complaints about Scottish councils. If you remain dissatisfied with a council after its complaints process, you can ask the SPSO to look at your complaint. The SPSO cannot normally look at complaints:

- where you have not gone all the way through the council's complaints handling procedure
- more than 12 months after you became aware of the matter you want to complain about, or
- that have been or are being considered in court.

The SPSO's contact details are:

SPSO
4 Melville Street
Edinburgh
EH3 7NS

SPSO
Freepost EH641
Edinburgh
EH3 0BR

Freephone: **0800 377 7330**
Online contact www.spsso.org.uk/contact-us
Website: www.spsso.org.uk
Mobile site: <http://m.spsso.org.uk>

Factoring complaints

The SPSO does not normally look at complaints about to our factoring service. From October 2012, there will be a new route for these complaints: the Homeowners Housing Panel. They will work to resolve complaints and disputes between home owners and property factors. So if a factoring customer is still dissatisfied after our investigation stage, they can go to the Homeowners Housing Panel. More information will be available once the Panel is fully established.

Governance of the Complaints Handling Procedure

Roles and responsibilities

Overall responsibility and accountability for the management of complaints lies with the Chief Executive and senior management.

Our final position on the complaint must be signed off by an appropriate senior officer and we will confirm that this is our final response. This ensures that our senior management own and are accountable for the decision. It also reassures the customer that their concerns have been taken seriously.

Chief Executive: The Chief Executive provides leadership and direction in ways that guide and enable us to perform effectively across all services. This includes ensuring that there is an effective complaints handling procedure, with a robust investigation process that demonstrates how we learn from the complaints we receive. The Chief Executive may take a personal interest in all or some complaints, or may delegate responsibility for the complaint handling procedure to senior staff. Regular management reports assure the Chief Executive of the quality of complaints performance.

Directors: On the Chief Executive's behalf, directors may be responsible for:

- managing complaints and the way we learn from them
- overseeing the implementation of actions required as a result of a complaint
- investigating complaints
- deputising for the Chief Executive on occasion.

However, directors may decide to delegate some elements of complaints handling (such as investigations and the drafting of response letters) to other senior staff. Where this happens, directors should retain ownership and accountability for the management and reporting of complaints. They may also be responsible for preparing and signing decision letters to customers, so they should be satisfied that the investigation is complete and their response addresses all aspects of the complaint.

Executive Managers: may be involved in the operational investigation and management of complaints handling. As senior officers they may be responsible for preparing and signing decision letters to customers, so they should be satisfied that the investigation is complete and their response addresses all aspects of the complaint.

Complaints investigator: The complaints investigator is responsible and accountable for the management of the investigation. They may work in a service delivery team or as part of a centralised customer service team, and will be involved in the investigation and in co-ordinating all aspects of the response to the customer. This may include preparing a comprehensive written report, including details of any procedural changes in service delivery that could result in wider opportunities for learning across the local authority.

All local authority staff: A complaint may be made to any member of staff in the local authority. So all staff must be aware of the complaints handling procedure and how to handle and record complaints at the frontline stage. They should also be aware of who to refer a complaint to, in case they are not able to personally handle the matter. We encourage all staff to try to resolve complaints early, as close to the point of service delivery as possible, and quickly to prevent escalation.

Local authority SPSO liaison officer: Our SPSO liaison officer's role may include providing complaints information in an orderly, structured way within requested timescales, providing comments on factual accuracy on our behalf in response to SPSO reports, and confirming and verifying that recommendations have been implemented.]

Complaints about senior staff

Complaints about senior staff can be difficult to handle, as there may be a conflict of interest for the staff investigating the complaint. When serious complaints are raised against senior staff, it is particularly important that the investigation is conducted by an individual who is independent of the situation. We must ensure we have strong governance arrangements in place that set out clear procedures for handling such complaints.

Recording, reporting, learning and publicising

Complaints provide valuable customer feedback. One of the aims of the complaints handling procedure is to identify opportunities to improve services across Shetland Islands Council. We must record all complaints in a systematic way so that we can use the complaints data for analysis and management reporting. By recording and using complaints information in this way, we can identify and address the causes of complaints and, where appropriate, identify training opportunities and introduce service improvements.

Recording complaints

To collect suitable data it is essential to record all complaints in line with SPSO minimum requirements, as follows:

- the customer's name and address
- the date the complaint was received
- the nature of the complaint
- how the complaint was received
- the service the complaint refers to
- the date the complaint was closed at the frontline resolution stage (where appropriate)
- the date the complaint was escalated to the investigation stage (where appropriate)
- action taken at the investigation stage (where appropriate)
- the date the complaint was closed at the investigation stage (where appropriate)
- the outcome of the complaint at each stage
- the underlying cause of the complaint and any remedial action taken.

We have structured systems for recording complaints, their outcomes and any resulting action. These provide a detailed record of services that have failed to satisfy customers.

Reporting of complaints

Complaints details are analysed for trend information to ensure we identify service failures and take appropriate action. Regularly reporting the analysis of complaints information helps to inform management of where services need to improve.

We publish on a quarterly basis the outcome of complaints and the actions we have taken in response. This demonstrates the improvements resulting from complaints and shows that complaints can influence our services. It also helps ensure transparency in our complaints handling service and will help to our customers users that we value their complaints.

We must:

- publicise on a quarterly basis complaints outcomes, trends and actions taken
- use case studies and examples to demonstrate how complaints have helped improve services.

This information should be reported regularly (and at least quarterly) to our senior management team.

Learning from complaints

At the earliest opportunity after the closure of the complaint, the complaint handler should always make sure that the customer and staff of the department involved understand the findings of the investigation and any recommendations made.

Senior management will review the information gathered from complaints regularly and consider whether our services could be improved or internal policies and procedures updated.

As a minimum, we must:

- use complaints data to identify the root cause of complaints
- take action to reduce the risk of recurrence
- record the details of corrective action in the complaints file, and
- systematically review complaints performance reports to improve service delivery.

Where we have identified the need for service improvement:

- the action needed to improve services must be authorised
- an officer (or team) should be designated the 'owner' of the issue, with responsibility for ensuring the action is taken
- a target date must be set for the action to be taken
- the designated individual must follow up to ensure that the action is taken within the agreed timescale
- where appropriate, performance in the service area should be monitored to ensure that the issue has been resolved
- we must ensure that local authority staff learn from complaints.

Publicising complaints performance information

We also report on our performance in handling complaints annually in line with SPSO requirements. This includes performance statistics showing the volumes and types of complaints and key performance details, for example on the time taken and the stage at which complaints were resolved.

Maintaining confidentiality

Confidentiality is important in complaints handling. It includes maintaining the customer's confidentiality and explaining to them the importance of confidentiality generally. We must always bear in mind legal requirements, for example, data protection legislation, as well as internal policies on confidentiality and the use of customers' information.

Managing unacceptable behaviour

People may act out of character in times of trouble or distress. The circumstances leading to a complaint may result in the customer acting in an unacceptable way. Customers who have a history of challenging or inappropriate behaviour, or have difficulty expressing themselves, may still have a legitimate grievance.

A customer's reasons for complaining may contribute to the way in which they present their complaint. Regardless of this, we must treat all complaints seriously and properly assess them. However, we also recognise that the actions of customers who are angry, demanding or persistent may result in unreasonable demands on time and resources or unacceptable behaviour towards our staff. We will, therefore, apply our policies and procedures to protect staff from unacceptable behaviour such as unreasonable persistence, threats or offensive behaviour from customers. Where we decide to restrict access to a customer under the terms of an unacceptable actions policy, we have a procedure in place to communicate that decision, notify the customer of a right of appeal, and review any decision to restrict contact with us. This will allow the customer to demonstrate a more reasonable approach later.

Supporting the customer

All members of the community have the right to equal access to our complaints handling procedure. Customers who do not have English as a first language may need help with interpretation and translation services, and other customers may have specific needs that we will seek to address to ensure easy access to the complaints handling procedure.

We must always take into account our commitment and responsibilities to equality. This includes making reasonable adjustments to our service to help the customer where appropriate.

Several support and advocacy groups are available to support customers in pursuing a complaint and customers should be signposted to these as appropriate.

Time limit for making complaints

This complaints handling procedure sets a time limit of six months from when the customer first knew of the problem, within which time they may ask us to consider the complaint, unless there are special circumstances for considering complaints beyond this time.

We will apply this time limit with discretion. In decision making we will take account of the Scottish Public Services Ombudsman Act 2002 (Section 10(1)), which sets out the time limit within which a member of the public can normally ask the SPSO to consider complaints. The limit is one year from when the person first knew of the problem they are complaining about, unless there are special circumstances for considering complaints beyond this time.

If it is clear that a decision not to investigate a customer's complaint will lead to a request for external review of the matter, we may decide that this satisfies the special circumstances criteria. This will enable us to consider the complaint and try to resolve it.

Appendix 1 - Complaints

The following tables give examples of complaints that may be considered at the frontline stage, and suggest possible actions to achieve resolution.

Complaint	Possible actions to achieve resolution
The customer complains that her council tax direct debit has been set up wrongly.	Apologise to the customer and resolve the issue by properly updating the direct debit details.
The customer has provided evidence to verify his claim for benefits, but the Benefits Service has not updated his case records with this information.	<ul style="list-style-type: none"> • Apologise to the customer. • Update the customer's benefit record to record receipt of evidence. • Check that the benefit award is corrected from the appropriate date.
The customer complains that a workman did not attend to carry out a housing repair as we had agreed.	<ul style="list-style-type: none"> • Speak to the workman, the service or the service manager to explain the customer's complaint and to agree how to resolve the issue, for example by arranging a new time and date to do the repair. • Explain the reasons for the failed appointment and apologise to the customer.
The customer complains that the quality of a repair done by us or our contractor is not satisfactory.	<ul style="list-style-type: none"> • Ask the service department to examine the repair to assess whether or not it is acceptable. • If appropriate, agree that the service department should do more work to resolve the matter. • Explain and apologise to the customer. • Obtain a report from the service or contractor to confirm that the repair is now complete. • Feedback the lessons learned from the complaint into a service improvement plan.
The customer complains that a road is not on our winter gritting route so has not been gritted.	<ul style="list-style-type: none"> • Find out which roads are on our agreed gritting routes, and explain this route to the customer. • Use the customer's concerns to inform our future approach to gritting roads.

Complaint	Possible actions to achieve resolution
<p>The customer complains that his home carer turned up late and was smoking.</p>	<ul style="list-style-type: none"> • Contact the care service to discuss the matter with a service manager. • The care service should check the timetable for visits and discuss with the home carer the complaint about smoking. The care service should let you know the outcome. • You in turn contact the customer to explain the policy, confirm the timing of visits (for example between 08:00 and 12 noon) and, where appropriate, apologise for the inconvenience.
<p>The customer complains that a night-working refuse collector woke her up by making excessive noise.</p>	<ul style="list-style-type: none"> • Explain our policy on refuse collection, in particular the approach to night working. • Tell the customer that you will pass on details of the complaint to the service to highlight the noise issue and ask the service to do what they can to control noise. • Apologise to the customer for the inconvenience.
<p>The customer expresses dissatisfaction in line with the definition of a complaint, but says she does not want to complain – just wants to tell us about the matter.</p>	<ul style="list-style-type: none"> • Tell the customer that we value complaints because they help to improve services. Encourage them to submit the complaint. • In terms of improving service delivery and learning from mistakes, it is important that customer feedback, such as this, is recorded, evaluated and acted upon. Therefore, if the customer still insists that they do not want to complain, record the matter as an anonymous complaint. This will avoid breaching the complaints handling procedure. Reassure the customer that they will not be contacted again about the matter.

Appendix 2 - What is not a complaint

A concern may not necessarily be a complaint. For example, a customer might make a routine first-time request for a service. This is not a complaint, but the issue may escalate into a complaint if it is not handled effectively and the customer has to keep on asking for service.

A customer may also be concerned about various local authority decisions. These decisions may have their own specific review or appeal procedures, and, where appropriate, customers must be directed to the relevant procedure. The following paragraphs provide examples of the types of issues or concerns that must not be handled through the complaints handling procedure. This is not a full list, and you should decide the best route for resolution based on the individual case.

Example 1: Planning

Customers may express dissatisfaction after the refusal of planning or other related permissions. An example would be dissatisfaction with a condition of consent or an enforcement action.

Planning applicants, or their agent, have the right to appeal to Scottish Ministers on planning or related matters determined by Committee or decided under delegated powers. Appeals are usually, but not always, decided by a Reporter from the Directorate of Planning and Environmental Appeals and can be considered on the basis of written submissions or by a hearing or public inquiry. The Reporter appointed to consider the appeal will manage the whole process and consider how to gather enough information to make a decision.

Customers who are dissatisfied with one of our planning decisions, and who have a right to appeal to Scottish Ministers, should be directed to this service. However, some complaints about planning matters are from third parties such as neighbours. These customers do not have the right of appeal to Scottish Ministers. These complaints should, therefore, be considered through the CHP.

Example 2: Benefits

A customer may be dissatisfied or disagree with a decision about their housing or council tax benefit claim. This is not a complaint. The customer may ask us to review the decision. If they remain dissatisfied at the outcome of the review or reconsideration of their claim, they may also appeal against our decision to an independent appeal tribunal. Where they want to do so, you should direct them appropriately.

Example 3: Claims for compensation

A customer may seek compensation from us if they consider us liable. This includes issues such as personal injury or loss of or damage to property. Claims for compensation only are not complaints, so you must not handle them through the complaints handling procedure. You should be clear, however, that where a customer wants to complain about the matter leading to their request for compensation, for example workmen damaging their home, or the condition of a public road causing damage to a motor vehicle, you may consider that matter as a complaint, but deal with the request for compensation separately. You may decide to suspend complaint action pending the outcome of the claim for compensation. If you do this, you must notify the customer

and explain that the complaint will be fully considered when the compensation claim has been resolved.

If you receive a compensation claim, you should explain to the customer the process for seeking resolution in line with our policy on these claims.

You can still make 'time and trouble' payments for inconvenience suffered by customers, in line with our policy on such matters. This is distinct from compensation claims.

Example 4: Licence decisions

We are responsible for issuing various licences, including public entertainment, HMO (houses in multiple occupation), liquor and taxi licences. These have their own legal redress. Customers who are dissatisfied with these decisions will have to pursue this through the correct procedure for the type of licence they want.

Example 5: School exclusions and placing requests

Decisions on appeals against a pupil's exclusion from school or a refusal of a school placing request are made by Committee. Once the Committee has ruled, the customer cannot then use the complaints process to continue their case.

Example 6: School exam results

Schools have devolved authority to offer examinations on the awarding body's behalf. In most cases this will be the SQA. If a customer is dissatisfied with the result of an exam, the school should refer it to the awarding body.

Remember that although there may be an alternative form of redress for the customer as detailed above, you must consider carefully whether or not a customer's representations should be managed within the complaints handling procedure. Dissatisfaction with certain local authority decisions may simply require an explanation and directing to the correct route for resolution. If, however, a customer says they are dissatisfied with the administrative process we have followed in reaching a decision, you may consider that dissatisfaction through the complaints handling procedure. An example may be a complaint from a customer who is dissatisfied with a decision and alleges that we failed to follow or apply the appropriate guidance in reaching that decision.

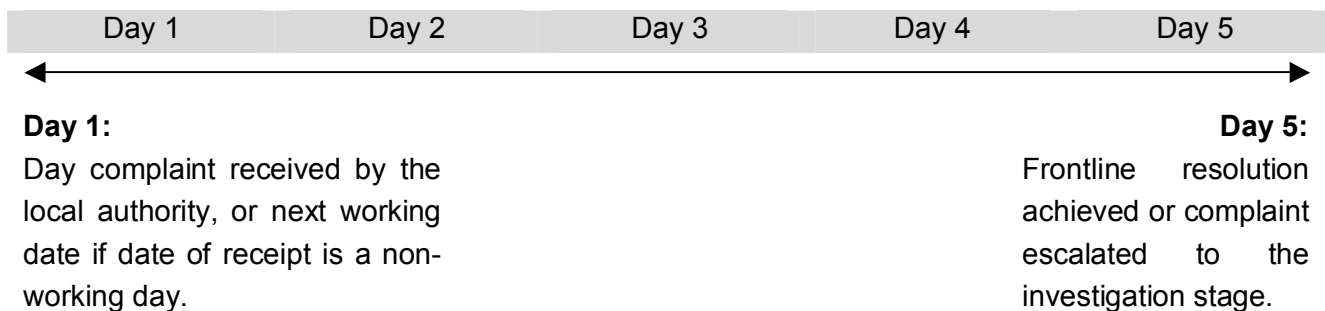
Appendix 3 - Timelines

General

References to timelines throughout the complaints handling procedure relate to working days. When measuring performance against the required timelines, we do not count non-working days, for example weekends, public holidays and days of industrial action where our service has been interrupted.

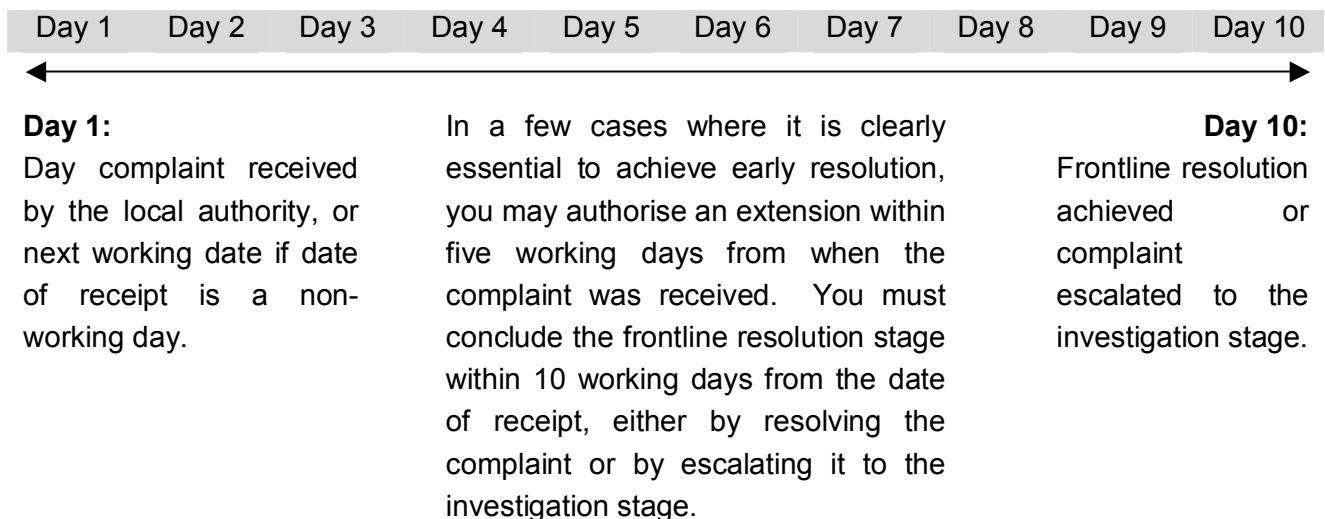
Timelines at frontline resolution

You must aim to achieve frontline resolution within five working days. The day you receive the complaint is day 1. Where you receive it on a non-working day, for example at the weekend or on a public holiday, day 1 will be the next working day.



Extension to the five-day timeline

If you have extended the timeline at the frontline resolution stage in line with the procedure, the revised timetable for the response must take no longer than 10 working days from the date of receiving the complaint.



Transferring cases from frontline resolution to investigation

If it is clear that frontline resolution has not resolved the matter, and the customer wants to escalate the complaint to the investigation stage, the case must be passed for investigation without delay. In practice this will mean on the same day that the customer is told this will happen.

Timelines at investigation

You may consider a complaint at the investigation stage either:

- after attempted frontline resolution, or
- immediately on receipt if you believe the matter to be sufficiently complex, serious or appropriate to merit a full investigation from the outset.

Acknowledgement

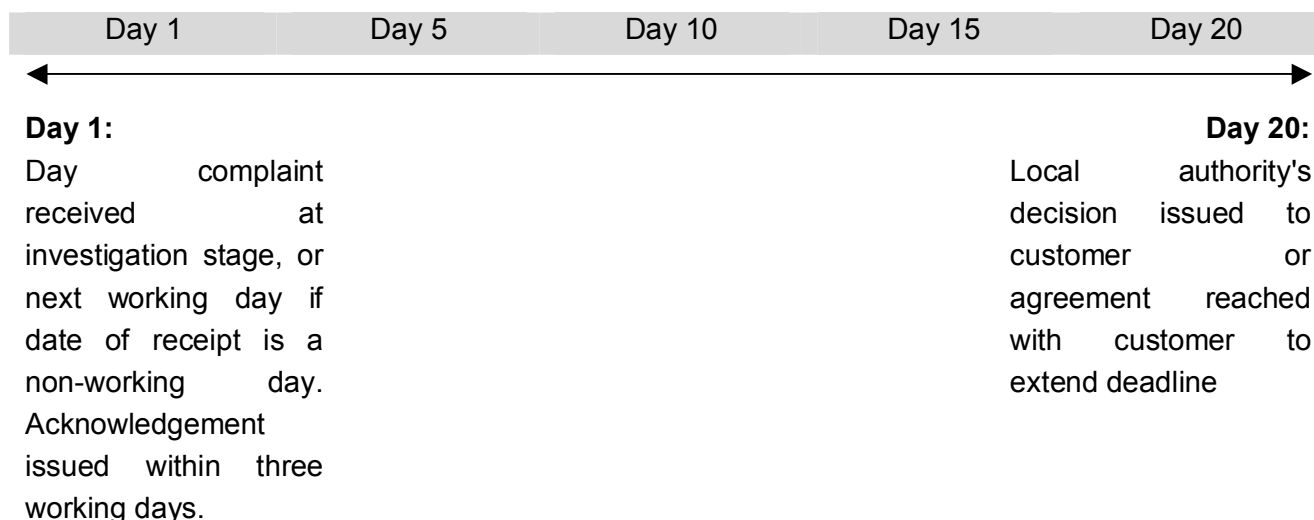
All complaints considered at the investigation stage must be acknowledged within **three working days** of receipt. The date of receipt is:

- the day the case is transferred from the frontline stage to the investigation stage, where it is clear that the case requires investigation, or
- the day the customer asks for an investigation after a decision at the frontline resolution stage. You should note that a customer may not ask for an investigation immediately after attempts at frontline resolution, or
- the date you receive the complaint, if you think it sufficiently complex, serious or appropriate to merit a full investigation from the outset.

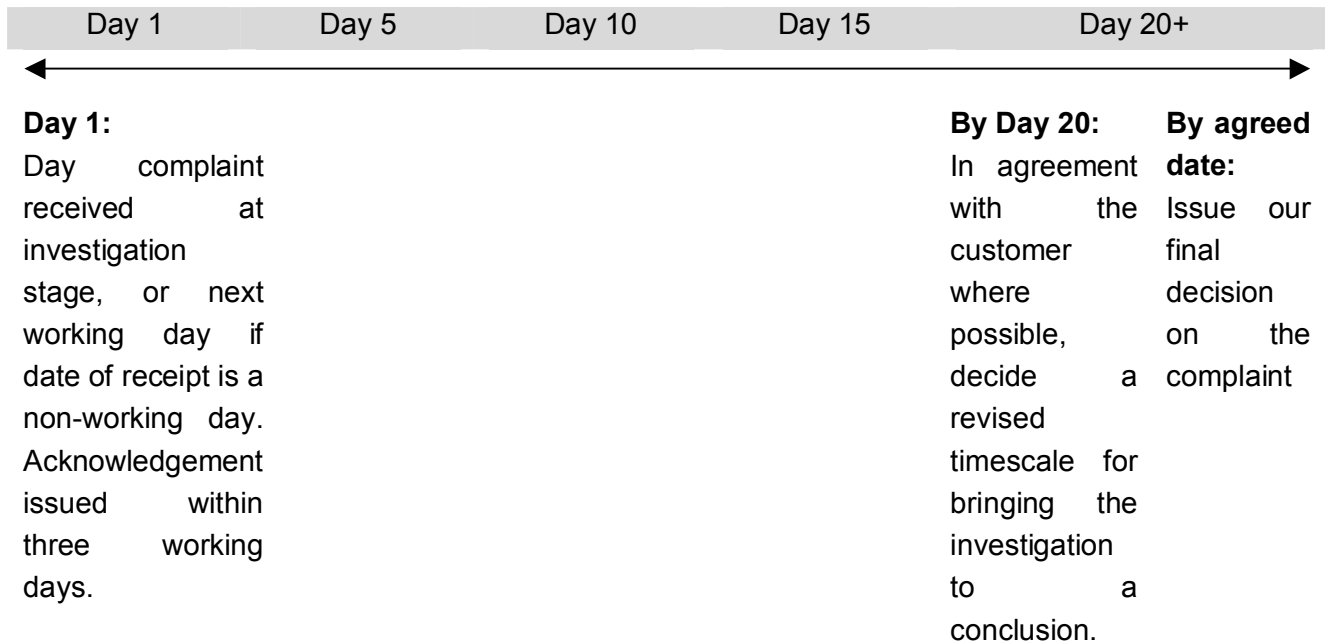
Investigation

You should respond in full to the complaint within **20 working days** of receiving it at the investigation stage.

The 20-working day limit allows time for a thorough, proportionate and consistent investigation to arrive at a decision that is objective, evidence-based and fair. This means you have 20 working days to investigate the complaint, regardless of any time taken to consider it at the frontline resolution stage.

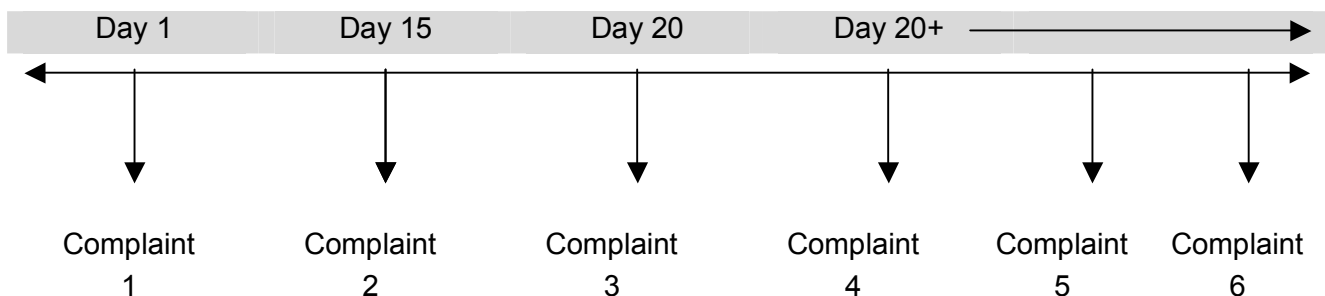


Exceptionally you may need longer than the 20-day limit for a full response. If so, you must explain the reasons to the customer, and agree with them a revised timescale.



Timeline examples

The following illustration provides examples of the point at which we conclude our consideration of a complaint. It is intended to show the different stages and times at which a complaint may be resolved.



The circumstances of each complaint are explained below:

Complaint 1

Complaint 1 is a straightforward issue that may be resolved by an on-the-spot explanation and, where appropriate, an apology. Such a complaint can be resolved on day 1.

Complaint 2

Complaint 2 is also a straightforward matter requiring little or no investigation. In this example, resolution is reached at day three of the frontline resolution stage.

Complaint 3

Complaint 3 refers to a complaint that we considered appropriate for frontline resolution. We did not resolve it in the required timeline of five working days. However, we authorised an extension on a clear and demonstrable expectation that the complaint would be satisfactorily resolved within a further five days. We resolved the complaint at the frontline resolution stage in a total of eight days.

Complaint 4

Complaint 4 was suitably complex or serious enough to pass to the investigation stage from the outset. We did not try frontline resolution; rather we investigated the case immediately. We issued a final decision to the customer within the 20-day limit.

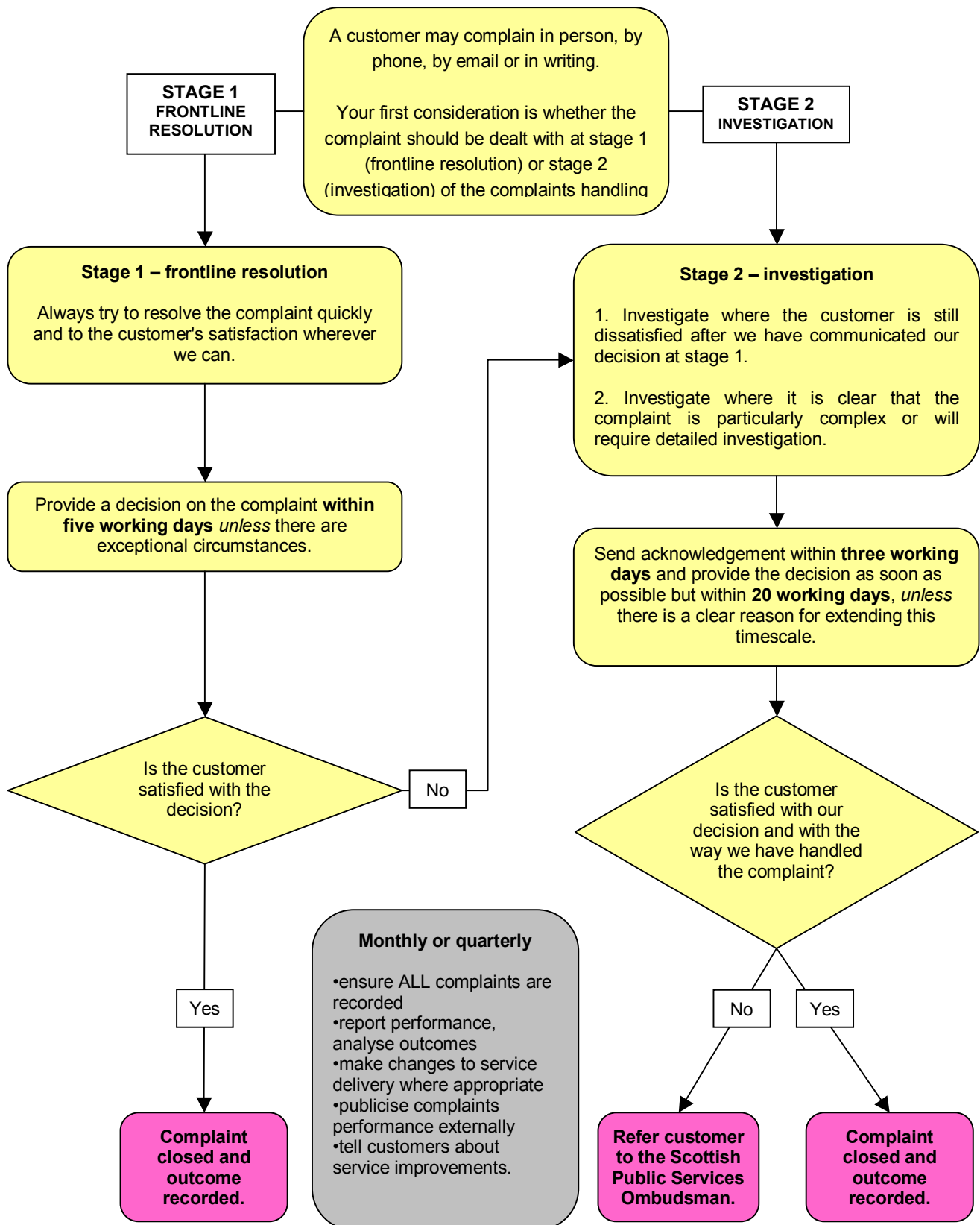
Complaint 5

We considered complaint 5 at the frontline resolution stage, where an extension of five days was authorised. At the end of the frontline stage the customer was still dissatisfied. At their request, we conducted an investigation and issued our final response within 20 working days. Although the end-to-end timeline was 30 working days we still met the combined time targets for frontline resolution and investigation.

Complaint 6

Complaint 6 was considered at both the frontline resolution stage and the investigation stage. We did not complete the investigation within the 20-day limit , so we agreed a revised timescale with the customer for concluding the investigation beyond the 20-day limit.

Appendix 4 - The complaints handling procedure Appendix 4



**Shetland Islands Council****20 September 2012**

SIC Code of Corporate Governance	
GL- 86-12-F	
Executive Manager – Governance & Law	Corporate Services Directorate

1.0 Summary

- 1.1 The purpose of this report is to present the appended Code of Corporate Governance and detail how an appropriate Self Assessment Framework will operate and thereby assist the Council in its ongoing efforts to operate at a high standard within its financial means.

2.0 Recommendations/Endorsements Required

- 2.1 That the Council RESOLVE to adopt the Shetland Islands Council Code of Corporate Governance, appended to this report, and that it be included as Part H of the Council's Constitution documents.

3.0 Detail

3.1 Background

- 3.1.1 Corporate Governance originally arose in the private sector due to a number of financial reporting irregularities which culminating in the Cadbury report which was published in 1992 and the concept was added to by the Greenbury report in 1995 and the Hampel report the following year.

- 3.1.2 At the same time, the Nolan Committee was considering the issue of Standards in Public Life and identified 7 key principles which public sector bodies should incorporate in the codes of Conduct, namely:

- Selflessness
- Integrity
- Objectivity
- Accountability

- Openness
- Honesty
- Leadership

3.1.3 The Scottish Executive took these recommendations and built on them culminating in the Ethical Standards in Public Life etc. (Scotland) Act 2000 and expanded the principles by a further 2

- Public Service
- Respect.

3.2 Implementation

3.2.1 Embedding good standards of Corporate Governance is fundamental to the organisation's ability to deliver its business at exemplary standards. It provides the leadership with the necessary mechanisms to take better control over the direction of the organisation and ensure that a shared vision is created and clearly communicated to stakeholders and partner organisations alike.

3.2.2 The principles of good Corporate Governance are now well established and recognised by industry and incorporating these standards in our day-to-day activities will assist the Council to achieve its aims and objectives at operational, corporate and strategic levels.

3.2.3 The appended Code takes account of all 9 of the key Corporate Governance principles and details the reporting arrangements for the self assessment framework, the Framework consists of 18 specific areas supporting the key principles and breaks these areas down into around 55 requirements against which the Council needs to evaluate itself against. Also included in the framework is the range of acceptable evidence in determining the Council's position and/or progress against each of these issues as well as any remedial actions required in the event that the organisation falls short of any of the standards expected.

3.3.4 It is intended that the initial assessment will be complete by the end of November with a report coming before the Audit and Standards Committee in December. This report will highlight the Council's collective achievements and areas requiring action in terms of attaining the standards set by the Code, along with details of the steps to be taken or planned to address emerging issues.

3.3 Linkages

3.3.1 The proposed Code of Corporate Governance and Self Assessment Framework links with:

- Performance Management framework and processes
- Risk Management framework and processes
- SIC Constitution and adopted values
- Member Officer protocols

4.0 Implications

Strategic/Corporate/Operational

- 4.1 Delivery On Corporate Priorities – This report supports the Shetland Improvement Framework Strategic Objective: *We have a strong improvement led and performance driven culture and systems; and we have a systematic approach to identify risks and develop effective responses.*
- 4.2 Community /Stakeholder Issues – The Council's stakeholders and the wider community have expectations that the Council will deliver a range of quality services within budget, both efficiently and effectively, and without waste, or disproportionate cost. The Code of Corporate governance and self assessment framework will help to ensure that The council delivers on those expectations
- 4.3 Policy and/or Delegated Authority – Matters reserved to the Council by the Scheme of Delegations includes the making of any document which forms part of the Council's Constitution.
- 4.4 Risk Management – Identifying, understanding and controlling risks, in their widest sense, is fundamental to the delivery of quality, value for money services. The Code of Corporate Governance and self assessment framework addresses a range of operational, corporate and strategic risk.
- 4.5 Equalities, Health and Human Rights - good governance has at its very core, principles in common with the effective delivery of equalities.
- 4.6 Environmental - None
- 4.7 Efficiencies and Savings – Good Corporate Governance arrangements and the effective management of risks, will reduce both one-off and on-going losses and wasted resources leading to greater efficiency and boosting the Council's ability to operate within its means.

Resources

- 4.8 Financial – None
- 4.9 Legal – This organisation operates within a range of legislative and regulatory frameworks. It faces a range of significant financial and other risk exposures due to potential non-compliance, breaches and other failings. The effective identification and management of these issues is essential in order to protect the organisation, its staff, service users and the wider communities it serves.
- 4.10 Human Resources – None.
- 4.11 Assets And Property – none

5.0 Conclusions

- 5.1 The attached Code of Corporate Governance sets out the qualities and standards against which performance and improvement can be measured. The Self Assessment framework will highlight achievements and failures against those qualities and standards and will be reported to the Audit and Standards Committee at 6 monthly intervals.

For further information please contact:

J R Riise – Executive Manager Governance and Law
or

Sandra Pearson, Team Leader - Safety & Risk

ext 4558, sandra.pearson@shetland.gov.uk

13 September 2012

END

SHETLAND ISLANDS COUNCIL

LOCAL CODE OF CORPORATE GOVERNANCE

1 Foreword

- 1.1 Shetland Islands Council strives to deliver the best possible services for the community whilst keeping within our financial means and is therefore committed to following the principles of Corporate Governance in its aim to meet its strategic, corporate and operational objectives.

2 General Purpose

- 2.1 The Council's Local Code of Corporate Governance shall become an integral part of its service delivery and shall be reflected in all that it does, leading to improved levels of corporate awareness and understanding, underpinned by the following qualities:
- Selflessness
 - Integrity
 - Objectivity
 - Accountability
 - Openness
 - Honesty
 - Leadership
 - Public Service
 - Respect

3 Scrutiny

- 3.1 The Local Code of Corporate Governance shall set measurable standards against which Council performance can be continuously assessed through a process of self evaluation supported by a range of clear and robust evidence and shall be subject to transparency and open scrutiny. These standards will be held up for judgement both internally and externally by the following bodies:

3.1.1 Internal Scrutiny

- CMT
- Chief Executive

- SIC Committee
- Audit & Standards Committee
- Risk Management Board
- Internal audit
- Risk Management Section

3.1.2 External Scrutiny

- Audit Scotland/Accounts commission
- Shetland Public
- Local/National/Global Media
- SPSO
- Public Sector Inspectorates

4 **Fundamentals of the Code**

4.1 Shetland Island's Council's Code of Corporate Governance consists of **6 Fundamental Elements** that shall run as a "golden thread" through all aspects of the Authority's business. These Principles are:

4.1.1 Purpose, Outcomes and Vision

Shetland Islands Council will focus on:

- understanding and clear communication the purpose of the Authority
- short, medium and long-term outcomes for the Community
- creating an implementing a vision for the community now and well into the future that can deliver high quality value-for-money services

4.1.2 Working Together

Shetland Islands council will:

- ensure Members and officers understand the functions of the Council and work together with a common purpose
- clearly define the roles and functions of both Members and officers and their respective relationships with the community
- ensure the Authority's vision, corporate plan, priorities and targets are developed and tested through robust mechanisms

4.1.3 Conduct and Behaviour

Shetland Islands Council will:

- Develop, promote and implement a set of clear values for the Authority
- actively demonstrate the values of Good Governance
- uphold high standards of conduct and behaviour reflective of exemplary governance

4.1.4 Internal Control and Managing Risk

Shetland Islands Council will:

- take informed and transparent decisions and be able to evidence same
- provide a robust means of scrutiny with continual self assessment and improvement
- manage risk effectively at operational, corporate and strategic levels, and across all of its activities

4.1.5 Development of Officers and Members

Shetland Islands Council will:

- develop the capacity and capability of Members and officers to be fully effective in all aspects of their respective roles their roles, particularly those with responsibility for Governance, and ensure the right skills, knowledge and experience is evident
- Striking the right balance in the membership of the Shetland Islands Council between continuity and renewal

4.1.5 Engaging Stakeholders and Public Accountability

Shetland Islands Council will:

- engage with local people to ensure a shared vision
- engage with other stakeholders and ensure that partnership arrangements are underpinned by a common vision
- ensure robust accountability arrangements are in place, as well as mechanisms to identify both failure and improvement.

5 Self Evaluation and Improvement Framework

- 5.1 The Corporate Governance Self Evaluation and Improvement Framework consists of around 18 key issues broken down into the region of 55 requirements against which the organisation must be evaluate itself against and is designed to evidence and identify both achievements and failures, as well as to direct and inform specific areas for further improvement.
- 5.2 The Framework follows each of the key principles detailed in section 4 of this Code and details the specific standards to be achieved by the Authority, along with the supporting evidence and/or any remedial actions required where current standards fall short of those expected.
- 5.3 Comprehensive 6 monthly reports will be submitted to Audit & Standards Committee advising on progress and risks identified, as well as actions taken or planned to manage those risks and improve overall performance.

6 Authorisation

This Local Code, which should be challenged and supported by reliable evidence, shall underpin all that the Council does in the name of the community and shall be reviewed on an annual basis to ensure its ongoing effectiveness.

Signed:

Chief Executive

Leader

Date:

**Shetland Islands Council****20 September 2012****SIC Diary of Meetings - 2013**

GL-74-12-F

**Report Presented by
Executive Manager – Governance & Law****Corporate Services Department****1.0 Summary**

- 1.1 The purpose of this report is to seek Members' approval as to the diary of meetings for 2013, based upon the current cycle of meetings.

2.0 Decision Required

- 2.1 That the Council RESOLVES to approve the schedule of meetings for 2013.

3.0 Detail

- 3.1 The proposed scheduling of Council, Committee, Sub-Committee and Board meetings for these cycles is attached as Appendix 1.
- 3.2 Members are asked to note the following:
- All morning meetings commence at 10 a.m., and all afternoon meetings commence at 2 p.m.
 - Meetings of the Staffing Appeals Committee have been scheduled for each cycle, so that in the event of an appeal being required the date has already been set provision, but subject to change depending upon availability of all the participants.
 - At any time, in consultation with Chair and relevant Members and Officers, meeting dates may be changed or special meetings added.

4.0 Implications

Strategic

- 4.1 Delivery On Corporate Priorities – The recommendation in this report is not linked directly to any of the Corporate Priorities.
- 4.2 Community /Stakeholder Issues – None.
- 4.2 Policy And/Or Delegated Authority – A decision of the Council is required as noted in Paragraph 1.2 of the Standing Orders for Meetings.
- 4.3 Risk Management – None.
- 4.4 Equalities, Health And Human Rights – None.
- 4.5 Environmental – None.

Resources

- 4.6 Financial – None.
- 4.7 Legal – None..
- 4.8 Human Resources – None.
- 4.9 Assets And Property – None.

5.0 Conclusions

- 5.1 The Council is required to approve the meeting dates set out in Appendix 1 to this report.

For further information please contact:
Anne Cogle, Team Leader - Administration
01595 744554 anne.cogle@shetland.gov.uk
12 September 2012

List of Appendices

Appendix 1 – Calendar of proposed meeting dates 2013

Background documents:

None.

END

2012 meetings – already approved by Council

2012	Date	Monday	Tuesday	Wednesday	Thursday	Friday
Week beginning Monday	Week ending Friday					
26 Nov	30 Nov a.m.	EXECUTIVE COMMITTEE				
	p.m.					
3 Dec	7 Dec a.m.			SIC		
	p.m.					
10 Dec	14 Dec a.m.	LICENSING COMMITTEE/SIALB	SLAP	ENVIRONMENT AND TRANSPORT COMMITTEE	SCT	
	p.m.				AUDIT AND STANDARDS COMMITTEE	
17 Dec	21 Dec a.m.	Planning Site Visits	PLANNING COMMITTEE			
	p.m.					
24 Dec	28 Dec a.m.		Public Holiday	Public Holiday	Christmas Closedown	Christmas Closedown
	p.m.					
31 Dec	4 Jan 2013 a.m.	Christmas Closedown	Public Holiday	Public Holiday		
	p.m.					

2013	Date	Monday	Tuesday	Wednesday	Thursday	Friday	
Week beginning Monday	Week ending Friday						
7 January	11 January a.m.						1
	p.m.						
14 January	18 January a.m.			SOCIAL SERVICES COMMITTEE			2
	p.m.	ZETTRANS					
21 January	25 January a.m.	STAFFING APPEALS COMMITTEE		EDUCATION AND FAMILIES COMMITTEE		LICENSING COMMITTEE/SIALB	3
	p.m.						
28 January	1 February a.m.		UHA				4
	p.m.	O&S VJB			SHETLAND COLLEGE BOARD		
4 February	8 February a.m.	Planning Site Visits	PLANNING COMMITTEE	DEVELOPMENT COMMITTEE	HARBOUR BOARD		5
	p.m.		EJCC				
11 February	15 February a.m.	EXECUTIVE COMMITTEE					6
	p.m.						

2013	Date	Monday	Tuesday	Wednesday	Thursday	Friday	
Week beginning Monday	Week ending Friday						
18 February	22 February a.m.			SIC			7
	p.m.						
25 February	1 March a.m.	STAFFING APPEALS COMMITTEE					1
	p.m.						
4 March	8 March a.m.	Planning Site Visits	PLANNING COMMITTEE	ENVIRONMENT AND TRANSPORT COMMITTEE	AUDIT AND STANDARDS COMMITTEE		2
	p.m.	ZETTRANS					
11 March	15 March a.m.			SOCIAL SERVICES COMMITTEE		LICENSING COMMITTEE/SIALB	3
	p.m.						
18 March	22 March a.m.			EDUCATION AND FAMILIES COMMITTEE			4
	p.m.				SHETLAND COLLEGE BOARD		
25 March	29 March a.m.		EJCC	DEVELOPMENT COMMITTEE	HARBOUR BOARD		5
	p.m.						
1 April	5 April a.m.	Easter Monday					
	p.m.						

2013 Week beginning Monday	Date Week ending Friday	Monday	Tuesday	Wednesday	Thursday	Friday	
8 April	12 April a.m.						
	p.m.						
15 April	19 April a.m.	Planning Site Visits	PLANNING COMMITTEE				6
	p.m.	EXECUTIVE COMMITTEE					
22 April	26 April a.m.			SIC			7
	p.m.						
29 April	3 May a.m.	STAFFING APPEALS COMMITTEE					1
	p.m.						
6 May	10 May a.m.			ENVIRONMENT AND TRANSPORT COMMITTEE	AUDIT AND STANDARDS COMMITTEE		2
	p.m.	ZETTRANS					
13 May	17 May a.m.	Planning Site Visits	PLANNING COMMITTEE	SOCIAL SERVICES COMMITTEE		LICENSING COMMITTEE/SIALB	3
	p.m.						
20 May	24 May a.m.			EDUCATION AND FAMILIES COMMITTEE			4
	p.m.				SHETLAND COLLEGE BOARD		

2013 Week beginning Monday	Date Week ending Friday	Monday	Tuesday	Wednesday	Thursday	Friday	
27 May	31 May a.m.		EJCC	DEVELOPMENT COMMITTEE	HARBOUR BOARD		5
	p.m.						
3 June	7 June a.m.	EXECUTIVE COMMITTEE					6
	p.m.						
10 June	14 June a.m.	Planning Site Visits	PLANNING COMMITTEE	SIC			7
	p.m.						
17 June	21 June a.m.	STAFFING APPEALS COMMITTEE					1
	p.m.						
24 June	28 June a.m.			ENVIRONMENT AND TRANSPORT COMMITTEE	AUDIT AND STANDARDS COMMITTEE		2
	p.m.	ZETTRANS					
1 July	5 July a.m.			SOCIAL SERVICES COMMITTEE			3
	p.m.						
8 July	12 July a.m.	Planning Site Visits	PLANNING COMMITTEE				
	p.m.						

2013	Date	Monday	Tuesday	Wednesday	Thursday	Friday	
Week beginning Monday	Week ending Friday						
15 July	19 July a.m.						
	p.m.						
22 July	26 July a.m.						
	p.m.						
29 July	2 August a.m.						
	p.m.						
5 August	9 August a.m.	Planning Site Visits	PLANNING COMMITTEE	EDUCATION AND FAMILIES COMMITTEE			4
	p.m.				SHETLAND COLLEGE BOARD		
12 August	16 August a.m.		EJCC	DEVELOPMENT COMMITTEE	HARBOUR BOARD		5
	p.m.						
19 August	23 August a.m.	EXECUTIVE COMMITTEE					6
	p.m.						
26 August	30 August a.m.	STAFFING APPEALS COMMITTEE		SIC			7
	p.m.						

2013	Date	Monday	Tuesday	Wednesday	Thursday	Friday	
Week beginning Monday	Week ending Friday						
2 September	6 September a.m.	Planning Site Visits	PLANNING COMMITTEE	ENVIRONMENT AND TRANSPORT COMMITTEE	AUDIT AND STANDARDS COMMITTEE		1
	p.m.						
9 September	13 September a.m.			EDUCATION AND FAMILIES COMMITTEE		LICENSING COMMITTEE/SIALB	2
	p.m.	ZETTRANS					
16 September	20 September a.m.			SOCIAL SERVICES COMMITTEE			3
	p.m.				SHETLAND COLLEGE BOARD		
23 September	27 September a.m.		EJCC	DEVELOPMENT COMMITTEE	HARBOUR BOARD		4
	p.m.						
30 September	4 October a.m.	Planning Site Visits	PLANNING COMMITTEE				5
	p.m.	EXECUTIVE COMMITTEE					
7 October	11 October a.m.			SIC			6
	p.m.						
14 October	18 October a.m.						
	p.m.						

2013 Week beginning Monday	Date Week ending Friday	Monday	Tuesday	Wednesday	Thursday	Friday	
21 October	25 October a.m.						
	p.m.						
28 October	1 November a.m.						1
	p.m.						
4 November	8 November a.m.	STAFFING APPEALS COMMITTEE		ENVIRONMENT AND TRANSPORT COMMITTEE	AUDIT AND STANDARDS COMMITTEE		2
	p.m.	ZETTRANS					
11 November	15 November a.m.	Planning Site Visits	PLANNING COMMITTEE	EDUCATION AND FAMILIES COMMITTEE		LICENSING COMMITTEE/SIALB	3
	p.m.						
18 November	22 November a.m.			SOCIAL SERVICES COMMITTEE			4
	p.m.				SHETLAND COLLEGE BOARD		
25 November	29 November a.m.		EJCC	DEVELOPMENT COMMITTEE	HARBOUR BOARD		5
	p.m.						
2 December	6 December a.m.	EXECUTIVE COMMITTEE					6
	p.m.						
9 December	13 December a.m.	Planning Site Visits	PLANNING COMMITTEE	SIC			7
	p.m.						

2013	Date	Monday	Tuesday	Wednesday	Thursday	Friday	
Week beginning Monday	Week ending Friday						
16 December	20 December a.m.						
	p.m.						
23 December	27 December a.m.			CHRISTMAS CLOSEDOWN	CHRISTMAS CLOSEDOWN	CHRISTMAS CLOSEDOWN	
	p.m.						
30 December	3 January 2014 a.m.	CHRISTMAS CLOSEDOWN	CHRISTMAS CLOSEDOWN	CHRISTMAS CLOSEDOWN	CHRISTMAS CLOSEDOWN		
	p.m.						

**Shetland Islands Council****20 September 2012****Bressay Bridge – Process Review and Conclusions****Report No: CE-01-F****Report Presented by Chief Executive****Executive Services****1.0 Summary**

- 1.1 Members were asked on 20 February 2012 to consider a report outlining a proposed settlement of the Lerwick Port Authority (LPA) action against Shetland Islands Council over the Bressay Bridge interim interdict. Members agreed to accept the proposal and the dispute was settled out of court on that basis.
- 1.2 At the meeting Members decided not to pursue a full formal investigation, although there was clearly an expectation that further information on the circumstances would be presented. Having had these matters reviewed it is pertinent to report them at this time.
- 1.3 Whilst I have reviewed the circumstances which led to the interdict, and its subsequent recall, the primary focus of this report is on revised procedures now in place, namely emergency powers, reporting style, Gateway Process and community planning requirements which in my view significantly reduce the likelihood of a similar event in the future. In addition insurance matters will be considered.
- 1.4 The decision to proceed with a bridge, seek interdict and actions thereafter have all been reported to the Council, a list of which is attached as Appendix 4.
- 1.5 Also attached to provide further background information, are a timeline of key events throughout the Bressay Bridge process (Appendix 1), and copies of legal advice provided by Shepherd + Wedderburn and Senior Counsel, Robert Howie, in connection with the insurance position (Appendices 2 & 3) .

2.0 Decision Required

- 2.1 Members are asked to note the contents of this report.

3.0 Background

- 3.1 This report demonstrates that current practices are significantly different to those in operation at the time the Bressay Bridge project was progressed and therefore greatly reduce the risk of a similar future occurrence.
- 3.2 Whilst in common with all major projects there were matters that could have been handled differently, no evidence has been presented to me that demonstrates there was failure to abide by the policies and procedures prevalent at the time, albeit in a couple of cases it would appear requested reports were not submitted. Senior Counsel has also confirmed there is no reasonable prospect of levelling any charge of negligence, error or omission against any SIC employee. It is also clearly stated that the decision to seek interim interdict was taken with appropriate delegated authority having regard to the relevant facts and circumstances and based on advice from external solicitors and counsel.
- 3.3 The interim interdict was sought as part of a judicial review of LPA's decision to change their dredging plans and protect the Council's position. The new plans by the LPA would have meant abandoning the Council's project on which at that stage approximately £1 million had been spent, along with considerable officer time.
- 3.4 Essentially in August 2005 the Council's argument was accepted by Lord Hodge in the Court of Session when he granted the interim interdict in favour of the Council. However, interim interdict was recalled by Lord Reed, in the Court of Session, in January 2007, as part of his judgement in favour of LPA. Recall of interim interdict, for whatever reason, in Scots law automatically makes it wrongful. Had the Council and LPA been heard before Lord Reed at the first hearing instead of Lord Hodge there may never have been an interim interdict. In simple terms Lord Reed's opinion of the law was different to Lord Hodge's.
- 3.5 One area of discussion has related to the existence of an agreement between the Council and the LPA. There was agreement between agents of both parties with regard to dredging parameters but it was not what could properly be described as a "formal agreement". Although Lord Reed says that there was no "formal agreement" between the parties he also makes it clear that no such agreement, formal or informal, could have been relied upon by the Council. A commitment to that effect would have been *ultra vires* of the LPA representatives unless it followed from a decision to grant a works licence in accordance with section 10 of the 1974 Lerwick Harbour Order Confirmation Act. The only binding formal agreement could have been the grant of a works licence by LPA (Refer Appendix 3 - Section 3.5). Any commitment to that effect would in any event have been *ultra vires* of the respondents, unless it was the corollary of a decision to grant a works licence in accordance with section 10 of the 1974 Act.

- 3.6 Embarking on court action, being by its very nature adversarial, always has a degree of uncertainty. I do not believe that anyone would disagree that, with the benefit of hindsight, different decisions could have been made throughout the process. However, these decisions were made in accordance with Council policy and procedure, prevalent at the time, having sought advice from relevant professionals in their field.
- 3.7 I am confident that subsequent changes, as outlined in Section 4, will greatly reduce the likelihood of similar future conflict.

4.0 Procedural Changes

Emergency Powers

- 4.1 Invoking Emergency Powers now requires consultation and consideration by at least four more individuals than in July 2005. At that time to invoke Emergency Powers required only one person to be consulted by the Chief Executive (either the Convener or the Vice Convener). The current requirements are for the Chief Executive or Directors to consult with all ward members (3 or 4 individuals) plus the Leader or Chair of the appropriate committee. Any one of the individuals consulted may make representations against the proposed course of action prompting a rethink or change of mind.

Reporting & Decision Making Process

- 4.2 A new style of report is now mandatory which forces the author to consider a number of factors, importantly potential risks associated with the actions in the report. Previously there was no requirement to include all these factors in reports. The issues that require to be considered in all reports are designed to ensure that Members are fully informed and that Officers, in preparing a report, have considered the wider policy framework and also resource issues which could have a financial impact on the Council. These issues are in Section 6 of this report. It is also worth advising members that all reports go through a review process by all Council Departments, particularly including Legal and Finance before being included on a committee agenda.

Gateway Process

- 4.3 The Gateway Process was agreed by Council on 24 March 2010. This makes it mandatory to follow a staged process in the Council's construction and other capital projects. Given that successive stages cannot be embarked upon without fully completing earlier stages, this ensures that no unnecessary resources are committed or actions taken without full justification for doing so, e.g. in the case of the Bressay Bridge a designer and contractor would not have been engaged without fully ensuring community partner participation.

Community Planning

- 4.4 The Local Government in Scotland Act 2003 ensured that wider aspects of Community Planning are considered along with other local authority responsibilities. This puts on a statutory footing the requirement for a Local Authority to actively engage with its community partners, statutory or otherwise. Although enacted in 2003 it has taken many years to develop and was not in place when the Bressay Bridge proposal was ongoing.
- 4.5 A Community Planning Board for Shetland is a statutory requirement and is formally constituted. In principle the Community Planning Partnership should hold a shared vision for Shetland which all partners are signed up to and which will strengthen relationships. When Community Planning is fully embedded the LPA should be part of this vision and partnership. It is understood that the Chair of the Shetland Partnership intends to approach LPA with respect to them being represented on the Board.
- 4.6 It should be acknowledged that LPA did engage with the Council by attendance at meetings with the Council's Project Team throughout the project.
- 4.7 Partners have a responsibility to provide strategic leadership and to ensure that they reflect the priorities detailed in the community plan within the plans and strategies of their own organisation. This responsibility is now a Council priority and the Executive Manager – Community Planning & Development has responsibility for the preparation and administration of the Shetland Partnership Community Plan and the Executive Manager – Improvement & Performance is similarly responsible for the Single Outcome Agreement.
- 4.8 Had Community Planning been embedded at the time, there would have been a responsibility for both SIC and LPA to engage with one another and other partners in a spirit of co-operation. Both would have been fully committed to understanding each other's plans and strategies. Whilst they may not always agree with each other the onus is on collaboration to find an acceptable outcome.
- 4.9 It seems to me if such a spirit of co-operation had been in existence when the Bressay Bridge was being proposed then one of three things might have happened:-
- Firstly, the Council may have been able to clearly identify from LPA an inability to develop the bridge without significantly hampering LPA's goals and strategies and therefore the only option would have been to abandon the bridge.
 - Secondly, the LPA may have recognised that the bridge proposal could have been adequately modified and allowed to be built on terms that suited both parties.
 - Thirdly, there could have been an option that took advantage of collaborative working to deliver both parties' development objectives in the most cost effective and mutually beneficial manner.
- 4.10 In my opinion, in all the scenarios in 4.9 above, the referral by one party or the other to the Court of Session, or any other judicial process, would in all probability not have happened.

5.0 Insurance

- 5.1 Two notes from external legal advisors form appendices 2 & 3. From a financial perspective, it is unfortunate but I am satisfied that the conclusions drawn, namely that the Council is not indemnified under the policy of insurance, are correct. This is the position adopted by the Council's insurers in 2009 when they rejected coverage of any claim. Following settlement the insurers were approached again and have confirmed that their "declinature remains".
- 5.2 Section 2 of Appendix 3 repeats the content of the relevant section of the Council policy of insurance (Officials Indemnity Policy). Regardless of whether or not there is a belief that the action against the Council was as a result of negligence on the part of the Council or a Council employee, for a claim to be covered by the insurers it has to be based on an allegation of loss resulting from a negligent act or accidental error or accidental omission and that the claim is made against the Council by a third party for their loss. The basis of any claim is dictated by the third party, in this case LPA, who raised an action of wrongful interdict. It was not a claim based on negligence in relation to any act of the Council.
- 5.3 To be absolutely clear, the Council has incurred a loss having made a payment to LPA for wrongful interdict but the Council cannot make an insurance claim against itself on the belief that this loss may have stemmed from a negligent act. A claim for loss due to negligence can only be made against a third party.
- 5.4 It should be noted that the current insurance policy will not indemnify the Council should a similar event happen in the future. It is not possible to categorically state that the Council will not find itself in a position of requiring to raise an interim interdict in the future to protect its position. Consideration will be given to seeking to introduce a suitable clause in any future insurance contract, although it may be that the cost is excessive in relation to the potential risk, particularly considering the changed processes outlined in Section 4 of this report.

6.0 Implications

Strategic

- 6.1 Delivery on Corporate Priorities – Emphasises the importance of the Shetland Partnership and the Gateway Process for all capital projects.
- 6.2 Community /Stakeholder Issues – Stresses future importance of engaging with community partners.
- 6.3 Policy and/or Delegated Authority – Need for full implementation of Shetland Partnership and Gateway Process.
- 6.4 Risk Management – This report highlights the importance of giving due consideration to all implications which require to be covered, thus reducing risk exposure to the Council and increasing the likelihood of avoiding undesirable future legal actions.

6.5 Equalities, Health and Human Rights – None.

6.6 Environmental – None.

Resources

6.7 Financial – None directly from this report.

6.8 Legal – None directly from this report.

6.9 Human Resources – None.

6.10 Assets and Property – None.

For further information please contact:

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August 2012

List of Appendices

Appendix 1 - Bressay Bridge Timeline

Appendix 2 - Shepherd & Wedderburn - Advice note

Appendix 3 - Robert Howie QC - Opinion

Appendix 4 - List of Council Reports

Bressay Bridge Timeline

1997 - Council approves commissioning of initial technical feasibility study for fixed link.



1998 - Initial Appointment of Engineering Consultant carried out appropriately.



7/4/99 - Stage 1 - Report to Committee on Feasibility of Fixed Link prepared by consultant. Officers instructed to proceed to investigating Bridge.



17/11/99 - LPA confirmed requirement for 160metres main span clearance (including 120 metre dredged channel) also 40m minimum air draft.



1/2/01 - Stage 2 - Report to Committee with detailed feasibility study and analysis of various factors (Economy, Environment, Safety, Accessibility and Integration). Recommendation approved in principle that a bridge be built to Bressay.



2001 – 2004 – Officers proceed with consultations and appoint Halcrow Group Limited as a consultant on 15th August 2002. AWG Construction Services (subsequently changed name to Morrison) appointed as contractor (Early Contractor Involvement) on 11th September 2003. Seacore awarded contract 12/3/03. Contract Compliance confirms contracts were subject to proper process. In addition notice of intention to develop, works licences, compulsory purchase orders, roads scheme consents etc were progressed during this period.

It would appear that once the consents were submitted the Council then had only very limited opportunity to change anything. In effect the choices were either (i) to conclude the process or (ii) abandon the project.



Jan 2003 – Arch Henderson produced report on behalf of LPA on future port development and options. This report maintained need for 160 metres clearance but suggested minimum air draft of 50 metres. Council estimated this would add £5 million to cost, suggested bigger vessels could be restricted to south entrance.



26/8/03 & 10/9/03 – Council vote to continue with project but budget capped at £19 million (Estimated 25% may be received from EU funding if commenced by end of 2006).



24/12/03 Notice of Intention to develop (Planning Permission) advertised. Drawings showed 160 metres main span with 134 metres clearance between pier foundations (including 120m dredged channel) and 40 metres minimum air draft. LPA subsequently objected.



9/1/04 E-mail sent by Arch Henderson confirming proposed dredging channel position.



7/5/04 & 19/5/04 – Report to Special Planning Sub-Committee approved by Council to proceed with bridge also advising will look at alternatives e.g. cost of increasing span to 180 metres, although it would appear that there was no evidence at the time it was necessary to increase the span. Advised LPA would cost additional £750,000. This additional cost was not formally reported to council.



13/5/04 – Second Notice of Intention to Develop, planning application and environmental statement submitted to Scottish Executive together with objections from 3rd parties (Including LPA).



3/6/04 – Applied to LPA for works licence to build a bridge – subsequently refused on 27/8/04 on grounds likely to obstruct or impede the performance of the Authority's functions under the Lerwick Harbour Acts and Orders and are likely to interfere with the reasonable requirements of navigation in the waters of the Port and Harbour of Lerwick.



21/9/04 - Appeal lodged with Scottish Ministers but was never determined. If the appeal had been determined it would either have meant SIC could not have taken the project any further or alternatively SIC would have had the "formal agreement" necessary to protect the bridge project against subsequent LPA alterations to dredging plans.



2/9/04 – Eagle, Lyon & Pope (ELP) reported dredged channel up to 150.5 metres required. Simulations requested by LPA to determine whether 120metres sufficient. Council officer advised 8/9/04. Council analysis suggested requirement for 150.5 metres was extreme



18/10/04 - Letter from LPA. Council called for report re content but it would appear no specific report was done



28/10/04 - Simulation testing by ELP indicated dredged channel would require to be at least 140 metres which would have significant effect on bridge specification. Advised in letter to Council dated 29/10/04. Also advised height would need to be 50 metres to accommodate numerous vessels using harbour with height in excess of 40 metres.



23/12/04 - LPA advised Council reviewing dredging line and would advise in due course positional requirements.



3/4/05 – ELP submit final report recommending channel of 140 metres - appears Council not formally advised at this time.



24/6/05 - The Council became officially aware of the new dredging plans.



June / July 05 - Council look to appoint solicitor to act at forthcoming inquiries. Shepherd + Wedderburn (S+W) appointed 6/7/05. Initial appointment was estimated to be within standing order requirements as estimated to be less than £50K. However, subsequent issues (i.e. dredging) meant solicitor costs were significantly more than £50K and as such were not formally covered in Standing Orders (this is an area still requiring to be addressed in the update of Standing Orders).



4/8/05 – Council lodge petition for interim interdict under Chief Executive's emergency powers to prevent dredging of limited areas in vicinity of proposed bridge. Reported to Council 14/9/05



31/8/05 – Copies of all three ELP reports received by Council.



7/10/05 – Council advised to proceed with building bridge an Act of Parliament would be required. This was not pursued. A bill was drafted but not pursued. The SIC offered to go into joint investigations with the LPA to examine alternatives to the bridge which ultimately led to the report to Infrastructure Committee on 10th June 2008 recommending a tunnel option be looked at.



15/5/06 - Scottish ministers write to Council stating that the Council need not make application for planning permission for bridge proposal. Planning permission therefore deemed to be granted. The Scottish Minister's decision was subsequently judicially reviewed by LPA but that challenge was unsuccessful.



12/1/07 - Lord Reed pronounces judgement in favour of LPA. Interim Interdict revoked.



1/5/07 - Council receives letter from LPA with invoice for payment as a result of Lord Reed's judgement.



9/5/07 - Council emails Zurich Municipal to put them on notice of a potential claim to be made against the Council.



4/9/07 - Lord Reed pronounces judgement in the LPA petition for judicial review of Scottish Ministers of their decision not to call in the decision to grant planning permission for the Bressay bridge project. Lord Reed's decision means that planning permission for the bridge stands.



15/1/08 – Council receives second letter from LPA with further invoice for payment.



24/1/08 - Council emails Zurich Municipal and asks them to treat the LPA correspondence as a formal claim.



27/8/08 - Council receives a summons from LPA for payment of £850,000 and £5,000,000 together with interest and expenses for loss and damage arising from interim interdict wrongfully obtained by the Council in August 2005.



29/1/09 - Letter from Zurich Municipal declining coverage under the Council's policy of insurance with them.



17/3/09 - S+W asked to continue acting for the Council and to take over from Simpson and Marwick the handling of the claim.



24/3/09 - S+W ask junior counsel to appear on the Council's behalf at the Court of Session hearing to be held on 25th March 2009. Senior counsel, Robert Howie QC, also approached by S+W to act for Council.



23/4/09 – Robert Howie QC delivers his first opinion to the Council with regard to the insurance position.



26/11/09 - Halcrow asked to continue acting for the Council and to prepare a report on the engineering aspects of the case. This engineering report is required to input into the legal analysis of the claim and in particular to assist quantification.



12/7/11 - After a number of revisions and reviews, Halcrow finalise and submit dredging report.



22/8/11 - Report by Robert Howie QC on the merits of a defence to the claim by LPA is submitted to the Council for consideration.



25/11/11 - Council engages Mr Gordon Greenhill under a contract for services to assist the Chief Executive and Executive Manager – Law and Governance in seeking a satisfactory settlement to the claim by LPA against the Council. Mr Greenhill engages with LPA's Chief Executive over a number of weeks and brings the Council to a position where a recommendation can be made to settle the claim.



20/2/12 - After hearing from Mr Howie QC and Mr Greenhill the Council decides to offer to settle the LPA claim at the sum recommended by Mr Greenhill.



21/2/12 - LPA decides to settle at sum agreed.



2/3/12 - LPA confirm receipt of £4,825,727 into their nominated bank account. Further to this payment a joint application was made to the court stating that the claim had been settled extra judicially.

OPINION
OF
SENIOR COUNSEL
FOR
SHETLAND ISLANDS COUNCIL.

I have been instructed by Messrs Shepherd & Wedderburn to provide some advice to the Shetland Islands Council about its policy of insurance with Zurich Insurance Company, and to explain why it is that the policy offered the Council no protection in the circumstances which arose in relation to the Bressay Bridge interdict. It may perhaps be more helpful for those looking at this matter in the context of the Council's Internal Inquiry if I explain the background to the concerns I have expressed about the ambit of the Council's Officer Indemnity Insurance.

I should stress at the outset that the problem which I outline below is *not*, in my opinion, a single one-off problem which arose in connection with the Bressay bridge. It is capable of arising in any interdict or diligence case in which the council engages external legal advisers to have immediate conduct of the case albeit that the ultimate strategic control of the conduct of the case remains in the hands of the council and its officials. Aside from cases sufficiently large in value or important in other ways to justify being raised in the Court of Session rather than in the sheriff court at Lerwick, I imagine that the facts of Scottish geography and the rules of jurisdiction mean that a good number of court cases will have to be fought by the Council on the Scottish mainland, and that for reasons of economics, interlocutory matters in those cases (such as motions for interim interdict or warrant to arrest or to inhibit on the dependence of an action) will have to be put in the hands of external legal advisers. The problem could also arise in cases in which the council's own staff in its legal department have conduct of a case, and diligence or interim interdict is obtained on a basis which, though wrong, is not open to attack on the ground that it was negligently put forward or that its presentation was an accident. If that be correct, the issue is one which could arise on a not insignificant number of occasions, if not – it is to be hoped – in quite so dramatic a way as it arose in connection with the Bressay bridge. The prospect of a not insignificant liability being incurred in damages for the wrongful arrestment of a ship or some other valuable asset is not entirely fanciful, however.

As will be appreciated, the basic structure of Part B of the Council's insurance contract is that the insuring clause in Section 2 sets out what the extent of the indemnity afforded by the contract will be and then other clauses place limits on the amount of the indemnity, provide for exclusions from the indemnity (which effectively qualify it) or place conditions on how it may be claimed or exercised. The present problem is concerned with the extent of the cover, but is not concerned with the conditions, limits or exclusions. Attention must therefore be concentrated on the insuring clause and its terms.

The cardinal point is that the insuring clause indemnifies the Council only in respect of "...all sums which [it] may become legally liable to pay... for Financial Loss arising as a result of a negligent act, accidental error or accidental omission committed... by an EMPLOYEE". The focus is therefore placed on what was done or omitted to be done by the official and whether that was the proximate cause of the Financial Loss of the pursuer. Unless the official's act or omission be that cause, the policy will not respond. Moreover, it will not so respond unless that act was "negligent" or "accidental" or the omission was "accidental" (in contrast to negligent). Curiously, negligent omissions do not appear to be covered.

The rules which govern the construction of contracts of Insurance are the same as those which obtain in relation to other contracts (The "Resolute" [2009] 1 L.L.R. 225). So, save where the contract uses technical terms possessed of special meanings in the area of human activity with which the policy is concerned, or adopts legal terms of art (such as the words "liquidated damages", "exemplary damages" and "distrain" which appear in this contract), the ordinary meanings of those words are usually to be applied to the interpretation of the word employed in policies of insurance (Sirius International Insurance Company v FAI General Insurance Ltd [2005] L.R.I.R. 294). The exception is where defined terms are used, such as the phrases "Geographical Limits" or "EMPLOYEE" in this case. Such terms have to be read, not in accordance with their ordinary meanings, but so as to reflect the special meanings they have been given in the definitions section of the policy itself.

In ordinary English useage, the word "accidental" denotes fortuity – something which happens by chance, or, more accurately in this context, mischance. The term is not apt to the situation in which an act or omission is the product of deliberation and judgement (however careful or subject to criticism that deliberation and judgement may be), and deliberation and judgement is precisely what one would expect to proceed from the Council and its officials in deciding what steps to take in a litigation the immediate conduct of which they have committed to outside advisers. Even if officials' decisions in such circumstances are wrong, they are highly unlikely to be the result of chance: they do not, I would suggest, decide such matters on the toss of a coin.

By contrast with the word "accidental", in the context of an indemnity against legal liability, the adjective "negligent" is not to be read in its ordinary acceptation as a synonym for "careless", but as importing the technical legal baggage of scope and breach of legal duty, relevant standards of care and so forth which are imported from the law of delict: in this context, the word is clearly used as a term of art, and so bears its technical meaning. The importance of this for present purposes is that if an act is to be stigmatised as being negligent, it will have to be such as falls below the standard of care which the law demands. In the field of professional negligence (such as would apply to the Council's internal legal advisers) it is often difficult to prove that that standard has not been met. In particular, the law is quick to acknowledge that merely because a decision or judgement proves to have been wrong and to have had unfortunate consequences, it is not on that account alone to be declared to have been negligent. For many years, therefore, the position has been that before a professional judgement or decision can be held to be negligent, it must be shown to be such that no ordinarily skilful member of the relevant profession, of the defender's rank and specialism, would have been guilty of that which the defender did or omitted to do if that hypothetical (in this case) local authority solicitor had been acting with ordinary care (*Hunter v Hanley* 1955 S.C. 200 at page 205 –most recently discussed in *ICL Tech Ltd v Johnston Oils Ltd* [2012] CSOH 62). In consequence, there is plenty of room for a court to arrive at the conclusion that decisions of Council officials in relation to the conduct of litigation were wrong, but neither negligent nor accidental. In the event of such a conclusion being drawn, the insuring clause of the contract would afford the Council no indemnity, and so the insurers would have no liability to the Council. The peril insured against would not have occurred. Shorn of the complications, it was on this ground that the Zurich Insurance Company rejected the Council's claim in the present case.

In many cases, this is of no consequence to the Council, because if its staff have not been negligent or done something by accident, it is unlikely to have incurred a liability to pay a third party for loss suffered in consequence of the acts or omissions of the Council. In the case of liability for wrongful interdict, however, the liability of the party who takes out the interdict is, as I have earlier explained, one which arises simply because the circumstances did not warrant the pronouncing of an interim interdict if they were all correctly understood and the law applicable thereto were correctly applied. Thus, as the Council's recent experience may demonstrate, it is quite possible for the Council to be liable to a third party for wrongful interdict even though there has been no accident in the handling of the case in which the interdict was taken and no fault on the part of Council staff.

Although there is as yet no court ruling on the point, it is my opinion that relatively recent changes to the law of diligence have resulted in that problem extending into the law on arrestment and inhibition on the dependence of an action. As a result, the number of occasions on which this problem could be encountered has increased not a little.

With a view to resolving the problem, it may be necessary to seek to negotiate a redrafting of the terms of the policy of insurance. I would not suggest that the basic insuring clause be altered, but rather that a special clause be added to deal with the problem of the wrongful interdict or the wrongful diligence. I notice that this course has been taken in the policy already in order to cater for some special statutory liabilities, and I would suggest that a similar mechanism be adopted here. The crucial point is that the Council should be indemnified against any sums which it is found legally liable to pay on account of any diligence or interdict imposed at the instance of the Council which is subsequently found to be wrongful – and that irrespective of whether or not the officials in question were negligent in deciding to obtain or to put into use that diligence or interdict. A precise form of words to achieve the desired end can no doubt be worked out.

Turning to the second point in the letter of instruction, it is apparent from the terms of the insurance contract that it is based on a standard form which has been drawn up with English law in mind and with a view to protecting against liabilities which can arise in England. That can be seen from the fact that it is thought necessary to insert into the contract provisions to exclude indemnity in relation to awards of exemplary damages (which cannot be made in Scotland) and awards of damages for libel or slander – which are English grounds of action. Even more telling is extension of cover to

bailiffs acting for the Council (as bailiffs do not exist in Scotland) and to cases of illegal distraint. That is a purely English notion, and a legal wrong which cannot be committed in Scotland.

The remark I made at the Council's meeting in February arose out of the fact that the contract of insurance had clearly been devised with a background of English law in mind. I proceeded, and proceed, upon the assumption that the insurers would not have contemplated insuring the Council against the risk of malicious or improper actings by its staff on account of the moral hazard which that would involve. On that assumption, the utility to an English local authority of a policy drawn in the terms of the Council's one is reasonably apparent because it is directed to dealing with the liabilities which such an authority might be exposed to, at least if malicious action and so forth be excluded from consideration as being highly unlikely to occur.

As I observed above, in Scotland liability for wrongful interdict or diligence is strict. It can arise without negligence on the part of any Council official, and without any mischance having occurred. To take an extreme case, one could be liable for wrongful diligence or interdict because the legal precedent on which one relied successfully at first instance was overruled on appeal. Liability in that case would not be covered under this policy because, almost by definition, there has been no negligence. But if the same circumstances were to befall an English local authority, it would appear to be in a much happier position than would Zetland be. It would seem that there would be no liability to any third party for having taken out a wrongful injunction because there is no strict liability tort of failing to secure a permanent injunction (*Fletcher Sutcliffe Wild Ltd v Birch* [1982] F.S.R. 64). There would in consequence be nothing for the hypothetical English authority to insure against as it would not be at risk of becoming legally liable to pay anyone damages on account of the overruling of the case on which it had based its application for an interim injunction.

Likewise, if one imagined that the Council had been obliged to secure a claim by way of the arrestment of a ship belonging to the defender, and that arrestment were to be recalled on appeal because its legal basis in a given case was undermined by virtue of the overruling of that case in the course of the appeal, there would be a liability in Scotland for any loss suffered by the shipowner as a result of the arrest of his vessel. In England, on the other hand, if liability for the wrongful arrest of a vessel is to be established, it would seem that the shipowner must show that the arrest proceeded from malice or, which is more likely, *crassa negligentia* on the part of the arresting party (The

("Kommunar (No.3)" [1997] 1 L.L.R. 22). The latter, of course, would entail negligent acts so that the liability would come within the scope of the present policy. In the kind of case postulated in my example, the want of negligence on the part of the hypothetical English authority would exclude liability to the shipowner. The contrast with the Scottish position is clear.

The last matter raised in my instructions relates to the phrase, "negligent act or accidental error or accidental omission". I have already opined as to the meaning of that phrase, but since the contract of insurance insures against loss "as a result of" such an act, error or omission, if the insurance is to cover the facts of any given case, the Financial Loss suffered by the third party must have as its proximate cause the negligent act of an "EMPLOYEE" or the accidental error or omission of such a person (Bell v Lothiansure Ltd 1993 S.L.T. 421). The word, "proximate" is important. Even if some negligence on the part of an appropriate person features in the chain of causation which led to the loss, it will not serve to bring the indemnity from the insurers into play unless that negligence was the proximate cause of the loss. In a case which presents a chain of causation, one has to search out the dominant, or effective, cause of the loss (Leyland Shipping Company, Ltd v Norwich Union Fire Insurance Society Ltd [1918] A.C. 350). In this case, I do not see how the Financial Loss suffered by the Lerwick Port Authority could be said to be the proximate consequence of any act or omission of the Council's staff. The dominant cause of that loss was the pronouncement of an interim interdict after an *inter partes* hearing. Council staff had little or no involvement in that. The decision they took to proceed with the application for interdict was deliberate and, as I understand it, taken in light of advice. I doubt if employees of the Council did more than provide the occasion for the effective causes of the loss to operate. After all, despite the Council's decision to proceed, it might have lost its motion for the award of interim interdict. That being so, I would not have thought that this phrase afforded any route by which the insurers could be held liable to indemnify the Council.

THE OPINION OF,

Edinburgh,

9th May, 2012.



SHEPHERD+ WEDDERBURN

Lerwick Port Authority -v- Shetland Islands Council

Note on Insurance Issues

1. Background

- 1.1 In September 2008, Lerwick Port Authority (“LPA”) raised an action against Shetland Islands Council (“SIC”) in the Court of Session seeking damages arising as a result of an interim interdict obtained by SIC in August 2005. SIC intimated the claim to their insurers, Zurich, who initially took forward the defence of the claim. However, in January 2009 Zurich intimated that it would not be obliged to indemnify SIC in respect of any liability to LPA in terms of the policy.
- 1.2 The purpose of this note is to advise SIC as to whether it is entitled to an indemnity from Zurich in respect of the claim in terms of the insurance policy.

2. The Insurance Policy

- 2.1 The relevant section of SIC’s Officials Indemnity Policy with Zurich for the relevant year provides:

Section 2 – Cover

The INSURER will indemnify the INSURED in respect of all sums which the INSURED may become legally liable to pay as damages and claimants’ costs and expenses for Financial Loss arising as a result of a negligent act or accidental error or accidental omission committed, or alleged to have been committed, within the Geographical Limits, by an EMPLOYEE in, or about, or in consequence of, their duties arising out of the BUSINESS for which a claim is first made against the INSURED and is notified to the INSURER during the Period of Insurance.

In addition, the INSURER will pay all costs and expenses incurred with its written consent in defending any claim which may be the subject of indemnity under this part.

3. Indemnity under the Policy

- 3.1 Shepherd and Wedderburn LLP (“S+W”) first sought an Opinion from Senior Counsel, Robert Howie QC, on the question of whether Zurich were entitled to reject liability under the policy when we were first instructed in relation to this claim in February 2009. Senior Counsel’s view, with which we agree, is that Zurich are not liable to indemnify SIC in relation to any damages payable to LPA in relation to this claim.
- 3.2 Senior Counsel reached this view for two reasons: first, there was no negligent act or accidental error or accidental omission by any SIC employee that would trigger the indemnity; and second, in any event, the proximate cause of SIC’s liability was the decision of the Court to grant interim interdict, and not any act or error or omission of any SIC employee.

- 3.3 In relation to the first point, the law proceeds on the basis that it is for the person seeking an indemnity from the insurer to prove that its case falls within the ambit of the policy¹. In this case, SIC would need to prove that the liability to pay damages to LPA arose as a result of a negligent act or accidental error or accidental omission committed by one of its employees.
- 3.4 In this regard, the act or error or omission must relate to the decision to seek interim interdict only, and not to any events leading up to that decision. Senior Counsel advises that there is no reasonable prospect of levelling any charge of negligence or error or omission against any SIC employee in relation to the decision to seek interim interdict, or in the conduct of the interim interdict application itself. Key officials at SIC, including the Chief Executive and the Convener, were involved in the decision to seek interim interdict. The decision was taken with the appropriate delegated authority, having regard to the relevant facts and circumstances and based on advice received from external solicitors and counsel. SIC officials were aware of the risks involved in seeking interim interdict, but were also aware of the consequences for the bridge project of failing to stop LPA from dredging the harbour. The size of the eventual liability to LPA as a result of the recall of the interim interdict, given the shift in world markets for dredging plant and availability, could not have been anticipated at that time.
- 3.5 We have noted above that the act or error or omission must relate to the decision to seek interim interdict, rather than the events leading up to that decision. It has been suggested that Council Officials' reliance on the alleged 'formal agreement' relating to the alignment of the proposed dredging channel in 2004 could amount to a negligent act or accidental error that would allow SIC to seek an indemnity from its insurer. Having carefully considered this point at the time the insurer rejected liability and again in the course of preparing this note, we do not consider that it is correct. The Council Officials believed that they were entitled to rely on the representations made on behalf of LPA. The reliance was therefore not accidental within the meaning of the insurance policy. Further, the Officials' view was supported by Lord Hodge, who considered that there was a *prima facie* case of personal bar or breach of legitimate expectations (paragraphs 19 to 23 of Lord Hodge's Opinion dated 5 August 2005). In his Opinion of 12 January 2007, Lord Reed, on his own initiative, took a different approach. The crux of Lord Reed's decision was that LPA was unable to fetter its discretion or decision-making powers by any form of agreement. Therefore in law, SIC could have no legitimate expectation arising out of the 2004 discussions, whether these discussions resulted in a formal agreement or not. On that basis, the interim interdict was recalled.
- 3.6 In relation to the second point, the negligent act or accidental error or accidental omission must be the proximate or dominant cause of the legal liability². In a case where the insured peril is a legal liability to pay constituted by a Court's judgment (in this case the decision of Lord Reed), a Court will not look outside the four corners of the judgment itself as to the basis of the liability to which the insured has become subject³. In other words, the proximate or dominant cause of SIC's liability is the decision of Lord Hodge granting interim interdict, having heard submissions on the facts and the law by both parties. In those circumstances, SIC is not entitled to an indemnity under the policy, since the liability

¹ *Anderson -v- Scottish Accident Insurance Co* (1889) 17 R 6

² *Leyland Shipping Co -v- Norwich Union Fire Insurance* [1918] AC 350

³ *London Borough of Redbridge -v- Municipal Mutual Insurance Co* [2001] LRIR 545

does not arise as a result of a negligent act or accidental error or accidental omission of any SIC employee; instead, it arises as a result of the Court's pronouncement of an interim interdict that was subsequently determined to be unfounded in fact and in law.

- 3.7 With regard to both points, it is important to note that, in the interim interdict application, Lord Hodge had not been misled on any of the facts, which were essentially the same as those presented to Lord Reed who took a different view on the application of the law. In his decision, Lord Reed found against SIC on the grounds that, having regard to the *vires* of LPA, it was impossible that SIC could have had legitimate expectations, still less rights, that would have served to prevent LPA from performing its statutory functions, or using its statutory powers, to dredge the harbour.

Shepherd and Wedderburn LLP
30 April 2012

Bressay Bridge Report

Appendix 4

Date	Committee	Comments
October 1997	Roads and Transport	Approved commissioning of technical feasibility study.
15 April 1998	Roads and Transport	Funding sought and approved for feasibility study.
6 May 1998	Shetland Islands Council	Approved minute of 15 April 1998 meeting.
17 February 1999	Roads and Transport	Update. Members requested Consultant Engineer give presentation at next meeting.
17 March 1999	Shetland Islands Council	Approved minute of 17 February 1999 meeting.
7 April 1999	Roads and Transport	Report by Principal Engineer Infrastructure and presentation by Halcrow Crouch. Committee instructed bridge options be investigated at Point of Scatland only.
26 April 1999	Shetland Islands Council	Approved minute of 7 April 1999 meeting.
5 July 2000	Shetland Islands Council	Capital Programme Review considered. Bressay Bridge formed part. EU Funding considered.
4 October 2000	Shetland Islands Council	Approved minute of 5 July 2000 meeting with one exception. Executive Director Infrastructure Services clarified inter alia full study for Bressay to be presented during next cycle, complete with costings and comparisons.
6 December 2000	Shetland Islands Council	Council noted that a 175 signature petition from Bressay Referendum Campaign asking for referendum on link.
1 February 2001	Resources Committee	Considered request for referendum. Decided against.
14 February 2001	Shetland Islands Council	Approved decision of 1 February 2001 meeting.
29 October 2001	Shetland Islands Council	Review of overall financial resources. No deferral for Bressay Bridge project because it could attract ERDF funding if completed before 2006/7.
9 November 2001	Shetland Islands Council	Capital Programme - General Fund Special Review. Agreed deferral of Bressay Bridge for 1 year.
28 November 2001		No change to deferral agreed at 9 November 2001 meeting.
13 February 2002	Shetland Islands Council	Capital Programme - All Funds. Programme Review. Recommended transfer of budget from 2003/4 to 2002/3 to all progression of planning, land take and preliminary designs. Council approved recommendations.
26 June 2002	Resources Committee	Recommended that Committee recommend to Council to bring Bressay Bridge forward by 1 year to secure ERDF funding.
8 October 2002	Member Officer Working Group Meeting	Discussion on Bressay Bridge project.
11 October 2002	Member Officer Working Group Meeting	Discussion on Bressay Bridge project.
27 November 2002	Shetland Islands Council	Confirmed that consultancy services contract awarded to Halcrow and preliminary work on design begun. Noted that SIC had met with LPA. Confidence expressed that completion by December 2006 achievable. Asking for £250,000 additional budget to meet costs of site investigation, hydrology studies, environmental studies, preliminary consultation and preliminary structural design. Committee approved recommendations.
17 June 2003	Infrastructure	Update. Early Contractor Involvement identified as

		strategy to best deliver project in line with cost, programme and specification. ECI allows contractor to contribute to next stages of design and development. No commitment to construct at this stage. Recommend Committee approve issue of tenders and appointment of a contractor on that basis. Committee duly approved.
2 July 2003	Shetland Islands Council	Approved decision of 17 June 2003 meeting. Cap of £19 million introduced on budgetary provision for Bressay Bridge project.
26 August 2003	Infrastructure	Recommends that Committee recommend to Council that the cap on Bressay Bridge be set at £19 million and delegate authority to Executive Director of Infrastructure Services to award contract for construction if budget requirement met. Update also provided on progress. With amendment, Committee approves recommendation.
10 September 2003	Shetland Islands Council	Approved decision of 10 September 2003 meeting.
4 May 2004	Infrastructure	Report on progress and asking Committee to note development of design and construction methods, responses to NID and ES and referral of both to Scottish Executive and intention to move towards subsequent stages of seeking all required statutory consents. Committee duly noted content and agreed that process should continue.
7 May 2004	Special Planning Sub-	Considered report from Head of Planning informing members of a Notice of Intention to Develop a bridge across Bressay Sound.
19 May 2004	Shetland Islands Council	Approved minute of 4 May 2004 meeting. Approved minute of 7 May 2004 meeting.
11 August 2004	Planning Sub-	Considered report from Head of Planning informing members of a Notice of Intention to Develop for improvements to inter alia Upper Gremista Road. This development ties in with Bressay Bridge development.
15 September 2004	Shetland Islands Council	Approved minute of 11 August 2004 meeting.
19 October 2004	Infrastructure	Progress report focussing in particular on progress for land acquisition and statutory consents: NID 1, NID 2, Works Licence, Road Scheme, Stopping Up and Side Road Order, Compulsory Purchase Order, Coast Protection Act and Acquisition from Crown Estate.
3 November 2004	Shetland Islands Council	Approved minute of 19 October 2004 meeting, with amendment.
14 September 2005	Shetland Islands Council	Report advising Council of court action taken under Chief Executive emergency powers and update thereafter. Notice of Motion, "That the Council reconsider the means of a fixed link between Lerwick, on the Shetland Mainland, and the Island of Bressay", also considered. Notice of Motion was rejected and the Bressay Bridge project proceeded.
2 November 2005	Shetland Islands Council	Approved minute of 14 September 2004 meeting.