

MINUTE

B - PUBLIC

**Shetland Islands Council
Council Chamber, Town Hall, Lerwick
Wednesday 20 April 2016 at 10.00 a.m.**

Present:

M Bell	M Burgess
P Campbell	G Cleaver
A Cooper	S Coutts
B Fox	R Henderson
A Manson	D Ratter
F Robertson	D Sandison
C Smith	G Smith
T Smith	M Stout
J Wills	A Westlake
V Wishart	

Apologies

A Duncan	G Robinson
A Wishart	

In Attendance (Officers):

M Boden, Chief Executive
C Ferguson, Director of Corporate Services
N Grant, Director of Development Services
J Belford, Executive Manager - Finance
J Riise, Executive Manager – Governance and Law
V Simpson, Executive Manager – Community Planning and Development
C Anderson, Senior Communications Officer
L Gair, Committee Officer

Chair:

Mr Bell, Convener of the Council, presided.

Circular:

The circular calling the meeting was held as read.

Declarations of Interest

Mr Sandison declared an interest in item 5 “College Integration - Progress Update and Next Steps” and item 6 “College Integration - Interim Joint Principal Recruitment” on the basis that he is an independent Trustee of the Shetland Fisheries Training Centre Trust (SFTCT) and he has a small financial interest as Chair of the Trust.

Mr Burgess declared a tentative, non-financial, interest in item 5 “College Integration - Progress Update and Next Steps” in regard to the SFTCT as a Council appointed Trustee and also a financial interest as a supplier of services to Shetland College and should discussion specific to the funding of either be held then he would leave the Chamber.

Minutes

Except as undernoted, the Council approved the minutes of the meeting held on (i) 10 February 2016 on the motion of Mr Fox, seconded by Mr C Smith.

Declarations of Interest – should be amended to read “Mr Burgess declared a tentative, non-financial, interest in item 8 “Joint Chair's Report - Special Education and Families Committee” in regard to the SFTCT as a Council appointed Trustee and also a financial interest as a supplier of services to Shetland College and should discussion specific to the funding of either be held then he would leave the Chamber.”

Except as undernoted, the Council approved the minutes of the meeting held on (ii) 24 February 2016 on the motion of Mr C Smith, seconded by Mr Bell.

Mr Burgess advised that he departed the meeting after minute ref. 10/16 and did not return therefore there should be no entry for declaration of interest in regard to agenda item 9.

19/16 **Shetland's Local Outcomes Improvement Plan 2016-20**

The Council considered a report by the Chief Executive (DV-28-16-F), which presented the background to the development of the Local Outcomes Improvement Plan (LOIP) and outlined the decision required by the Policy and Resources Committee and the Council.

The Chief Executive introduced the report and advised that the report had also been discussed at Policy and Resources Committee and informed that there will be a another seminar on further elements of the Act. The Chief Executive commented on the successful work to date and said that there is now a move to action delivery of concrete outcomes and he welcomed development on community engagement.

During discussion concern was expressed in regard to community engagement and how a proper demographic can be established and that an overlay of democracy could be seen as the Council imposing matters on the public again. It was acknowledged that empowering the public is an area that the Council had grappled with for many years however there are sufficient resources to support engagement across the partnership and the community. The Executive Manager – Community Planning and Development advised that this point had been discussed at Policy and Resources and within training plans there is an engagement mechanism to focus on engagement with community bodies in a meaningful way which helped take forward the pilot in the South Mainland. She said that the aim is to roll the pilot out further and consideration will be given to the resources required.

It was suggested however that Shetland has been more intensely involved in public policy than any other area and that there are adequate means for the public to put their view across, through their Community Councils or elected Members, and therefore the question is whether anyone is interested.

During debate a comment was made that it remains important to go beyond reactive engagement with the political process and give the public the opportunity to shape matters rather than to respond once things are in place. Whether that opportunity can be realised is another matter. It was suggested that a mechanism be developed to capture people's individual experiences during discussions at the different forums, such as the participatory budgeting events.

Reference was made to the Membership on the Shetland Partnership Board where, with the exception of HIE Shetland, the stakeholders were not good at speaking up and giving their commitment. It was suggested that Members need to challenge,

without aggression, the partner organisations and not keep filling that void. It was recognised however that engagement should be embracing and encouraging with room for discussion and strengthen how resources are used. Members acknowledged also that there are representatives on the Shetland Partnership Board that represent national bodies and are unable to comment on a number of issues where they are constrained by different powers.

Mr C Smith moved that the Council approve the recommendations contained in the report, Mr Fox seconded.

Decision:

The Council **RESOLVED** to:

- Sign up to Shetland's Local Outcomes Improvement Plan 2016-2020; and
- Support its implementation as a statutory Community Planning partner.

20/16

Corporate Risk Register

The Council considered a report by the Director of Corporate Services (CRP-07-16-F), which presented the Corporate Risk Register.

The Director of Corporate Services introduced the report and advised that the report had also been presented to Policy and Resources Committee. She explained that there had been discussion at Corporate Management Team (CMT) in regard to including the Risk Register as part of the quarterly planning and performance management framework. The Director of Corporate Services highlighted the new risks at Section 3.7 around data security and information governance, and advised that these will be added to the Risk Register.

In responding to a question regarding the restrictions as referred to in paragraph 3.8, Risk 18, the Director of Corporate Services explained that the Council's workforce is governed by national agreement, however market forces can be applied where there is an issue but this can be a difficult and time consuming process. In referring to the previous item, the Director of Corporate Services highlighted that the Local Outcomes Improvement Plan refers to inequalities and the cost of living in Shetland. She said that Officers would continue to keep this under review.

The Director of Development Services responded to a question on Risk 22 "STERT", and explained that this project is at the top level on the corporate risk register and in terms of the tertiary education review the risk will be updated as the project progresses.

Reference was made to Risk 28, relating to the delivery of the new AHS and a suggestion was made that another corporate risk should be included around the existing school building and site at the Knab, as this is a major piece of infrastructure and property that Members have an interest in. The Chief Executive said that this was on the departmental risk register but agreed with the suggestion that the Knab Site be included on the Corporate Risk Register and that it would be useful for Members to be informed on proposals for the site, by the Officer Working Group.

The Chief Executive was asked to provide an explanation on the change in profile from “possible” to “unlikely” in regard to Risk 17 “HIAL”, and advised that this would be explained in exempt session.

In terms of Risk 18 “Demographic Change”, it was noted that a lot of time had been invested in organisations to promote Shetland and the good quality of life here compared to most parts of Scotland. However it appeared that there was a mismatch in terms of other recruitment and retention of staff locally. The Director of Development Services confirmed that Shetland ranks highly as one of the good places to live, however there is often a shortage of professional staff nationally adding to the difficulty in attracting professional staff to move to Shetland. He added that efforts would continue in promoting Shetland as a good place to work, and some services were now active in providing workplace development and apprenticeships to encourage younger recruits.

At Risk 22, the Chief Executive confirmed that the risks involved were both financial, in terms of whether it is best value, and reputational in terms of the Colleges that rely on the services the Council provide. It was noted that the UHI want the Council to resolve this problem.

A suggestion was made that the new AHS Halls of Residence building should be included at Risk 28 - AHS Build Project. Members were advised that the significant risks were now contracted out and that the bill of risks sits with the Contractor. Officers were questioned whether they were happy with the present level of supervision and the point was made that the public would rather see a project overrun and be done properly than rush completion and face more problems. The Director of Corporate Services explained that the project manager has a robust plan in place so there is supervision on both sides of this project. She advised that the Contractor has commented on the high level of scrutiny for this project. She advised that progress is reported to the project team and board. The Director of Corporate Services provided more detail on the Council’s scrutiny role and agreed that more information would be shared with Members in that regard. The Chief Executive added that the new AHS project is not like any other the Council has had before in that it is using the Hub Model and the Council’s contract is with HubNorth where they run the project and take the risk but the Council oversee the project with its own supervision. He said that it was important that staff do not order instructions directly to the contractor as by doing so could lead the Council into accepting liability. The Chief Executive said it would be useful for Members to meet with the Council’s experts to talk through the detail of the project. Members agreed.

In considering the risks set out in the register, concern was expressed in regard to the Council’s partner’s risks and how the Council may suffer from this involvement. The Health Board was given as an example, where they had received £3.8m funding and other partners received funding cuts. The Director of Corporate Services explained that there are a number of levels of how risk is shared with partners, and advised that the process had started to develop a Risk Register for the Shetland Partnership.

In terms of Risk 26, “Failure to accommodate looked after children” - Officers were asked whether staff and resources had been attributed to identify solutions and engage with agencies to handle this issue afresh. The Director of Corporate Services advised that in terms of financial risks there are contingencies in place. The Chief Executive said that Risk 25, “the protection of children and young

people”, is a high priority. He explained that Risk 26 focuses on children in care where there are a range of issues regarding finding the appropriate solutions. He advised on the three routes, being adoption, fostering and residential care and the effort locally to attract more foster carers in Shetland and to identify possible residential care homes. The Chief Executive advised that the numbers of children in care is increasing and in some cases permanence is the only solution, which is being addressed and reports will come to Members in terms of the capital costs.

In response to a question the Director of Corporate Services said that she is the project sponsor in regard to the governance of Community Empowerment Act and the partnership in how and what it delivers. As a Council officer she has to be careful that the Council’s responsibilities do not usurp accountability and responsibility of other organisations and that any shared risk is assigned to the Partnership Board and ensures that distinction is maintained. She advised on the work undertaken by the Executive Manager – Community Planning and Development to support the implementation of the Community Empowerment Act.

The Director of Corporate Services referred to Risk 14, “risk that integration does not result in improved outcomes”, and Risk 16, “management capacity to deliver the benefits of integration”, which she said were linked but there is a national level of concern regarding how quickly progress will be seen on the 9 outcomes of the Public Bodies Act, however the IJB has been established since December 2015. She explained that Risk 16 relates to work done by the IJB to look at and revise structures in relation to the Local Outcome Improvement Plan. She said that there has been a change of emphasis regarding delivery of outcomes rather than governance structures. She added that this will show as a risk until the structure is in place.

In order to avoid the disclosure of exempt information, Mr Bell moved, Mr C Smith seconded, and the Council RESOLVED to exclude the public in terms of the relevant legislation during an update on Risk 17 Legal – HIAL/Sumburgh Airport.

(The press left the Chamber)

During discussions the Chief Executive provided an update on the current position in regard to HIAL.

(The press returned to the Chamber)

Mr C Smith moved that the Council approve the recommendations contained in the report with the addition that the Risk Register is reported quarterly through the planning and performance management framework. Mr G Smith seconded.

Decision:

The Council **RESOLVED** to:

- Note the changes to the content of the Corporate Risk Register;
- Note key risks facing the Council at this time and the action taken to mitigate those risks;

- Comment and advise the Chief Executive and senior managers of their views and any changes required; and
- Agree that the risk register will be reported quarterly as part of the planning and performance management framework.

21/16

Commissioning and Procurement Strategy Review

The Council considered a report by the Director of Corporate Services (CRP-08-16-F), which presented an update on the work being undertaken to review the Council's policies and strategies on commissioning and procurement, in particular those relating to the third sector.

The Director of Corporate Services introduced the report and advised that it had also been presented to Policy and Resources Committee.

In response to concerns that this may lead to the Council being responsible for paying for items ordered by another organisation, the Executive Manager – Finance advised that there would be close contact with suppliers in a manner that makes them responsible for billing the correct organisation. The Executive Manager – Governance and Law added that the payer of bills will be clearly identified in the contracts. The Chief Executive said that one key objective is to remove confusion to ensure the position will be clear.

During discussions the Director of Corporate Services responded to a number of questions including what was meant by the phrase “decomposition of outcomes” highlighted at para 3.14 bullet 4. She explained and how this was done to ensure that there is a robust appraisal under the Building Better Business Case taking account of best value, Prince2 and that the objectives of the Council's Corporate Plan and Local Outcomes Improvement Plan are met. At page 3 of the Appendix the Director of Corporate Services confirmed that the Commissioning Officer was responsible for benchmarking the Health and Social Care standards on the national framework. At page 4 she explained that the Council does not have to outsource procurement and advised on the Council's VAT position and the options open to the local authority and that sourcing may be possible through the third sector in order to attract external funding. She confirmed that a review of the markets and suppliers would be down to the commissioning officer to do when carrying out a piece of work, with assistance from Corporate Services.

Mr C Smith moved that the Council approve the recommendations contained in the report stating that this document was a good and useful tool. Mr Cleaver seconded.

Decision:

The Council **RESOLVED** to:

- NOTE the progress made in reviewing the Council's policies and strategies on commissioning and procurement presented in the report;
- APPROVE the Commissioning and Procurement Framework document [Appendix 1] as part of the Council's Strategic framework documents, as set out in Part A of the Council's Constitution, to be managed by the Policy and Resources Committee;

- AGREE that the Framework be implemented with immediate effect for use by the Council and delegate authority to the Director of Corporate Services, or her nominee, to update the Framework as required in light of guidance from the Scottish Government and any comments received from partner agencies and stakeholders; provided that where this constitutes a material change to the Framework and the processes described in the Framework, a further report will be presented to Policy and Resources Committee; and
- AGREE that the implementation and use of the Framework should be kept under review with regular updates regarding the commissioning and procurement of services presented to functional Committees and the IJB as part of the Planning and Performance Management Framework (PPMF) reports.

22/16

Notice of Motion

The Council considered a Notice of Motion in the following terms:

“Proposal is for Council to reinstate the requirement for elected members to be present at all tender bid document openings and for councillors to commit to fulfilling this role”.

Mr Fox spoke to his motion and asked whether it would be possible to include asset sales into the motion. The Convener advised that this was not possible and it was only the motion as submitted that could be considered at this meeting.

Mr Wishart seconded Mr Fox’s motion as presented.

Some Member spoke in support of the motion and during a short discussion on the logistics of attending these tender openings, emphasis was placed on Members to ensure they make themselves available to officers in order to fulfil this independent role.

Decision:

The Council **RESOLVED** to agree the terms of the Notice of Motion namely:

“Proposal is for Council to reinstate the requirement for elected members to be present at all tender bid document openings and for councillors to commit to fulfilling this role.”

(Mr Sandison left the Chamber)

23/16

College Integration – Progress Update and Next Steps

The Council considered a report by the Director of Development Services (DV22-16-F) which provided an update on progress and plans to take those actions forward and sought decisions on actions to support in moving towards a single governance and delivery model for “Tertiary Education, Research and Training in Shetland”.

The Director of Development Services introduced the report and drew attention to the governance arrangements that would allow the Principle to be clear on who they report to and in responding to a question he agreed that there needs to be work done to ensure workable and practical arrangements are in place to ensure timely decision making. Members were informed that the Joint Liaison Group had

pulled together draft protocol agreement between the NAFC and the Council that has started to identify what rests with the Shetland College Board and what options there are. Members noted that project meetings and strategy meetings are held every week and those involved were working as quickly as possible to bring recommendations forward.

The Director of Development Services confirmed that he would convey Member's frustration, to stakeholders, in regard to progress and missed deadlines.

Mr Campbell moved that the Council approve the recommendations contained in paragraphs 2.2 and 2.3, stating that significant progress was being made and matters were moving forward as insisted upon by the Council. Mr Cleaver seconded.

Decision:

The Council **RESOLVED** to approve the proposals detailed at paragraphs 2.2 and 2.3 of the report.

In order to avoid the disclosure of exempt information, Mr Bell moved, Mr C Smith seconded, and the Council RESOLVED to exclude the public in terms of the relevant legislation during consideration of the following items of business.

Mr Burgess declared a tentative, non-financial, interest in item 5 "College Integration - Progress Update and Next Steps" in regard to the SFTCT as a Council appointed Trustee and also a financial interest as a supplier of services to Shetland College and should discussion specific to the funding of either be held then he would leave the Chamber.

Mr Burgess declared an interest in item 7 "Update on Request for Support" as a Council appointed director of CADDs and he would leave the Chamber.

Mr P Campbell declared an interests in item 7 6 "Update on Request for Support" and said he would leave the Chamber.

24/16 **College Integration – Interim Joint Principal Recruitment**

The Council considered a report by the Director of Development Services which sought agreement for the process and to establish the membership of an Appointments Panel to take forward the recruitment of an Interim Joint Principal of Shetland College, Train Shetland and the NAFC Marine Centre.

Following some discussion, the Council approved the recommendations contained in the report with amendments on the motion of Mr Campbell, seconded by Mr G Smith.

Decision:

- The Council **RESOLVED** to appoint three Shetland College Board members and three members of Shetland Fisheries Training Centre Trust (SFTCT) Board, as nominated by the SFTCT Board, to the Appointments Panel;
- agreed that the interim role will be extended to the end of the academic year, namely June 2018; and

- approve the amended wording to Section 4.3 of the report, namely, “The position of Joint Principal, during a period of significant change, requires a different set of skills, experience and qualities in addition to those normally required for the post of Principal that may not be what are required for the long term benefit of Shetland’s Tertiary Education”.

(Mr Burgess and Mr Campbell left the Chamber)

25/16

Update on Request for Support

The Council considered a report by the Director of Corporate Services.

The Council noted the recommendations contained in the report.

Decision:

The Council **RESOLVED** to note the recommendations contained in the report.

The meeting concluded at 1.15pm

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Convener