

# MINUTES

# B - PUBLIC

**Shetland Islands Council  
Council Chamber, Town Hall, Lerwick  
Wednesday 13 December 2017 at 10am**

## **Present:**

M Bell	A Cooper
S Coutts	C Hughson
E Macdonald	R McGregor
A Manson	A Priest
D Sandison	I Scott
D Simpson	C Smith
T Smith	R Thomson
A Westlake	B Wishart

## **Apologies:**

M Burgess	P Campbell
A Duncan	J Fraser
S Leask	G Smith

## **In Attendance (Officers):**

M Boden, Chief Executive  
C Ferguson, Director – Corporate Services  
N Grant, Director of Development Services  
J Belford, Executive Manager – Finance  
D Bell, Executive Manager – Human Resources  
J Riise, Executive Manager – Governance and Law  
R Sinclair, Executive Manager – Capital Programme  
K Adam, Solicitor  
A Cogle, Team Leader - Administration  
B Kerr, Communications Officer  
A Taylor, Natural Heritage Officer  
L Geddes, Committee Officer

## **Also in Attendance:**

Chief Inspector L Tulloch, Police Scotland

## **Chairperson**

Mr Bell, Convener of the Council, presided.

## **Circular:**

The circular calling the meeting was held as read.

The Convener advised that as this was the last ordinary meeting of the Council before the Chief Executive, Mr Mark Boden, retired, it would be appropriate to record the Council's thanks to Mr Boden for the work he had carried out over the last five years. As Convener, he had always admired Mr Boden's ability to provide helpful, balanced, and fair advice, particularly in the Council Chamber, and he was sure the Council would join with him in wishing him and his wife, Angela, a long and happy retirement.

The Council concurred.

## **Declarations of Interest**

None

## **Minutes**

The minutes of the meeting held on 1 November 2017 were approved on the motion of Ms Wishart, seconded by Mr Thomson.

### **77/17 Chair's Report – Development Committee - Onshore Wind Energy Supplementary Guidance**

The Council considered a report by the Chair of Development Committee (SIC12-13 DV-59) which presented the Supplementary Guidance (SG) Onshore Wind Energy, previously considered by the Development Committee at its meeting on 4 December.

On the motion of Mr Cooper, seconded by Mr T Smith, the Council approved the recommendation in the report.

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#### **Decision:**

The Council **RESOLVED** to adopt the Supplementary Guidance (SG) Onshore Wind Energy.

### **78/17 Chair's Report: Policy and Resources Committee - Regulation of Investigatory Powers (Scotland) Act 2000**

The Council considered a report by the Chair of Policy and Resources Committee (SIC12-13 GL-50) seeking approval of the amended Policy and Procedure for Authorisation of Directed Surveillance, the Policy and Procedure for Authorisation of Covert Human Intelligence Sources (the RIPSA policies), and the Shetland Islands Council Regulation of Investigatory Powers Scotland Act 2000 Training Plan 2016-2021, previously considered by the Policy and Resources Committee at its meeting on 6 December.

On the motion of Mr C Smith, seconded by Mr Coutts, the Council approved the recommendations in the report.

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#### **Decision:**

The Council **RESOLVED** to approve:

- the amended Policy and Procedure for Authorisation of Directed Surveillance and the Policy and Procedure for Authorisation of Covert Human Intelligence Sources (the RIPSA policies)
- the Shetland Islands Council Regulation of Investigatory Powers Scotland Act 2000 Training Plan 2016-2021

### **79/17 Shetland Islands Council Overall Management Accounts 2017/18 - Projected Outturn at Quarter 2**

The Council considered a report by the Executive Manager - Finance (F-083-17-F) detailing the overall Council projected financial position as at Quarter 2.

The Executive Manager – Finance summarised the main terms of the report, advising that the detail had already been considered by the Council's service committees, and the report had been considered by the Policy and Resources Committee. He outlined the position highlighted in each of the appendices, advising that the revenue outturn

position was projected to be under budget by £2.384million. The capital outturn position was projected to be under budget by £4.034million, although much of this had been identified as being required in future years to complete projects. To meet cost pressures and contingency items in directorates, £1.486million had been applied. These mainly related to pay pressures, and the projected draw from reserves had been less than anticipated. The General Fund position was in balance, and reserves to the order of £22.8million would be used in order to balance the budgets. The Harbour Account was projected to be slightly ahead of the projected position, as was the Housing Revenue Account which should make a contribution to reserves. It was worth noting that the projected draw on reserves was currently an underspend of £3.6million.

In response to a query regarding when the Council could expect to be in a more sustainable position, the Executive Manager – Finance advised that the projected draw on reserves equated to a daily figure of £38,000. This reflected the extent the Council contributed to services over and above the income received from the Scottish Government and the tax payer. However the Council was much closer to a sustainable position. This year it was projected that £20million would be drawn from approved original budgets, plus an extra £2.8million using budget underspends from previous years to meet the additional carry forward expenditure.

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**Decision:**

The Council:

- **REVIEWED** the Management Accounts showing the overall projected outturn position at quarter 2
- **NOTED** the actions proposed set out in the report
- **APPROVED** the revised prudential indicators set out in Appendix 5

80/17 **Asset Investment Plan – Progress Report**

The Council considered a report by the Executive Manager – Capital Programme (CPS-07-17-F) which advised on the progress of the projects contained within its Asset Investment Plan which are currently underway or to be started in 2017/18.

The Executive Manager – Capital Programme summarised the main terms of the report.

In response to questions, he confirmed that Capital Programme officer time was factored into the outturn position, and that this was generally done via recharges. The Anderson High School path upgrade had been part of the original Sustrans project, and was included in the plan as some final roadworks were still to be completed.

It was commented that the Esplanade 20mph Traffic Calming project would not be fully completed until lights were in place, and it was questioned if consideration had been given to what might be required in terms of commissioning works to make sure the scheme was fully functional.

The Executive Manager – Capital Programme advised that he would clarify this point and circulate it to Members by email.

It was questioned where the external funding of £23million in relation to Ferry Operations would be coming from, and the Executive Manager – Finance advised that

the Asset Investment Plan had been approved on the basis that the Council would not be funding the ferry replacement programme. This was based on the assumption that this funding would be received directly from the Scottish Government following negotiations. It was included in the Asset Investment Plan, but provision had not been made to fund this work.

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**Decision:**

The Council **NOTED** the progress of the projects within the Asset Investment Plan.

81/17 **Corporate Risk Register Update**

The Council noted a report by the Director of Corporate Services (CRP-15-17-F) which provided information on recent revisions to the Corporate Risk Register.

The Executive Manager - Finance summarised the main terms of the report, advising that the Risk Board had met to consider the risk register, and had no suggested changes to make. However there would be substantial revisions made to the content and structure prior to the next report being presented in February.

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**Decision:**

The Council **NOTED** the recently revised Risk Register.

82/17 **Implementation of MiFID II (Markets in Financial Instruments Directive)**

The Council considered a report by the Executive Manager – Finance (F-093-17-F) which outlined the impact of the implementation of the Markets in Financial Instrument Directive 2014/65 (MiFID II), and in particular the risk to the Council of becoming a retail client on 3 January 2018.

The Executive Manager – Finance introduced the report, advising that it outlined the impact of the MiFID II and the risk to the Council of becoming a retail client. The Council had a complex investment structure and it was important to be able to access markets and investment products that were relevant in order to achieve returns. The proposals in the report would ensure that the Council would be able to continue to effectively implement its investment strategy. There was a risk that the Council would not have access to certain protections by choosing to opt up to professional client status, but it had not benefited from these protections in the past and the risk was also countered by the fact that the Council was already a sophisticated, large and complex investor.

On the motion of Mr C Smith, seconded by Mr Coutts, the Council approved the recommendations in the report.

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**Decision:**

The Council:

- **NOTED** the potential impact on the investment strategy from becoming a retail client with effect from 3<sup>rd</sup> January 2018
- **ACKNOWLEDGED** and **AGREED**, in electing for professional client status, that the Council forgo the protections available to retail clients attached as Appendix 1

- **AGREED** the actions taken by the Executive Manager – Finance to date, with all relevant institutions, in order to ensure it can continue to implement an effective investment strategy
- **APPROVED** delegated authority to the Executive Manager – Finance to make the necessary arrangements to finalise the applications and to determine the basis for the applications as either full or single service

#### 83/17 **Approval of Local Police Plan 2017-20**

The Council considered a report by the Executive Manager Community Planning & Development (DV-60), seeking approval of the Local Police Plan 2017-20.

The Director of Development Services summarised the main terms of the report, advising that it was a requirement that the Local Police Plan must be submitted to the local authority for approval, and it had already been presented to the Shetland Community Safety and Resilience Board where it had been well-received. The Plan had been created following consultation by Police Scotland on “Your View Counts” and using the “Shetland Place Standard” findings’, and it used the Local Outcomes Improvement Plan framework of Priorities.

He then introduced Chief Inspector Lindsay Tulloch who responded to queries from Members.

The Council noted that it had originally been intended to publish the Plan in October in line with other national plans, however this was the first meeting of the Council it could be presented to. Once approved, it would be published.

It was suggested that further clarification to be included in Appendix 1 to illustrate that “people at risk of harm” included adults as well as children and young people, and Chief Inspector Tulloch advised that it was the case that this category included all vulnerable people in the community. However he would ask for this to be clarified in the Plan.

On the motion of Mr Cooper, seconded by Mr Thomson, the Council approved the recommendation in the report.

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#### **Decision:**

The Council **RESOLVED** to approve the Local Police Plan 2017-20.

#### 84/17 **Appointments to External Organisations – SSMO and SCT**

The Council considered a report by the Executive Manager - Governance and Law (GL-48) detailing requests from Shetland Shellfish Management Organisation (SSMO) and the Shetland Charitable Trust (SCT) for the Council to reconsider its decision to not make elected Member nominations/appointments to their organisations.

The Executive Manager - Governance and Law summarised the main terms of the report, advising that the previous Council had considered a number of reports in relation to appointments to external organisations. These had taken account of a number of factors such as conflicts of interest, personal liability, duty and obligation to the electorate, and responsibilities as trustees. All these considerations had led to a reduction in the number of appointments to external organisations, and the Council had further agreed that consideration of any further requests would specifically look at

factors relating to the constitution and benefit to the Council, rather than the organisation making the request. As Monitoring Officer, he also had to take into account the Council's Code of Conduct and guidance from the Standards Commission in relation to declarations of interest, and how the business of the Council would be managed if Members had to declare interests and were unable to participate in debates.

He went on to say that evaluations had been completed on the two organisations that had submitted a request, and in both instances it was recommended that Members adhere to the current policy. This had also been the conclusion of the Institute of Directors with regard to Shetland Charitable Trust, when it had been noted that Members found it increasingly difficult to reconcile their obligations under the Council's Code of Conduct with the interests of Shetland Charitable Trust.

On the motion of Mr C Smith, the Council approved recommendation 1.1 in the report, and Mr McGregor seconded.

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**Decision:**

The Council **NOTED** the requests from SSMO and the SCT to make elected Member nominations/appointments as outlined in Section 4 of the report, and **RESOLVED** to maintain the Council's policy position in respect of both organisations, and therefore to decline the two requests.

85/17 **SIC Diary of Meetings 2018/19**

The Council considered a report by the Executive Manager – Governance and Law (GL-49) seeking approval for the 2018/19 schedule of Council and committee meetings.

The Team Leader - Administration summarised the main terms of the report, advising that the proposed diary was based on the principles of the current one. Several days had been set aside between cycles that could be used for special meetings, seminars and information-sharing events. Now that the Town Hall was open for civic use again, Islesburgh Community Centre would be the first choice of venue should the Chamber be unavailable.

On the motion of Mr C Smith, seconded by Mr Coutts, the Council approved the recommendation in the report.

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**Decision:**

The Council **RESOLVED** to approve the schedule of Council and Committee meetings for 2018/19.

**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 item of business.**

86/17 **Confidential Corporate Risk Register Update**

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

The Director of Corporate Services summarised the main terms of the report, and responded to questions from Members.

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**Decision:**

The Council **NOTED** the report.

87/17 **Travel at Work – Introduction of HMRC Mileage Rates**

The Council considered a report by the Executive Manager – Human Resources.

Papers containing additional information and an amendment to the decision required in the report were also tabled.

The Executive Manager – Human Resources summarised the main terms of the report, and responded to questions from Members.

Following some discussion, Mr C Smith moved that the Council approve the recommendations set out in the paper that had been tabled, and Ms Manson seconded.

Mr Coutts suggested that the Council should also be noting that the review of fleet management requirements across the Council will be undertaken in parallel with these proposed changes, and will inform the likely requirement for pooled vehicle provision, and set out the service implications. With the consent of his seconder, Mr C Smith agreed to include this in his motion.

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**Decision:**

The Council **RESOLVED** to:

- Cease payment of ECU mileage rate and casual car user mileage rate shown at Appendix 1 and replace these with the HMRC approved mileage rates set out in Appendix 2 amending mileage rates payable with effect from 1 April 2018
- Agree all posts advertised with effect from date of this meeting will no longer attract an entitlement to the ECU allowance
- Retain the ECU lump sum payment for employees currently designated as Essential Car Users to allow negotiations to take place on how the Council will manage the transition to remove this allowance by no later than 1 April 2019, including potential opportunities to access Council provided vehicles/car lease etc that may become available during 2018
- Delegate to the Chief Executive, or his nominee, the authority to negotiate with the joint trades unions on matters relating to removing Essential Car Users Lump Sum from designated Essential Car Users
- Note that the review of fleet management requirements across the Council will be undertaken in parallel with these proposed changes, and will inform the likely requirement for pooled vehicle provision, and set out the service implications

The meeting concluded at 11.35am.

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Convener

