

Chief Executive: Dr Ann Black

22-24 North Road  
Lerwick  
Shetland  
ZE1 0NQ

Telephone: 01595 744994  
Fax: 01595 744999  
mail@shetlandcharitabletrust.co.uk  
www.shetlandcharitabletrust.co.uk

If calling please ask for  
**Mary Anderson**  
Direct Dial: 01595 744992

Our Ref: EMA/TA1/1

Date: 15 May 2012

Dear Sir/Madam

I appreciate that you may not yet have accepted office as a Charitable Trust Trustee. However, please find attached the papers for the following:

**Shetland Charitable Trust  
Council Chamber, Town Hall, Lerwick  
Thursday 24 May 2012 at 10 a.m.**

Apologies for absence should be notified to Lynne Geddes on 01595 744592.

Yours faithfully

(signed) Dr Ann Black  
Chief Executive

## **AGENDA**

- (a) Hold circular calling the meeting as read.
- (b) Apologies for absence, if any.
- (c) Declarations of Interest.

### ***For Decision***

- 1. Appointment of Chair and Vice Chair. Report enclosed
- 2. General Administration – Power of Attorney. Report enclosed.





## REPORT

To: Shetland Charitable Trust

24 May 2012

From: Chief Executive

Report :CT1205025

### APPOINTMENT OF CHAIR AND VICE CHAIR

#### 1 Introduction

- 1.1 Trustees are asked to appoint a Chair and Vice Chair, to support the strategic direction and business of the Trust. It is proposed that these appointments are reviewed when a revised Trust constitution is adopted.

#### 2 Background

- 2.1 The Chair's overall purpose, as set out in the Administrative Regulations of the Trust, is to provide leadership and direction to the Trustees, enabling them to fulfil their responsibilities for the overall governance and strategic direction of the charity. The Chair also contributes to developing the Trust's aims, objectives and goals in accordance with the Trust Deed and legal and regulatory guidelines.
- 2.2 The Chair will work with the Chief Executive to ensure that Trustee decisions are acted upon and the charity is managed in an effective manner.
- 2.3 The Chair's main responsibilities are:
- To chair Trust meetings, at which (s)he will have a casting vote
  - Leading the trustees and members of the staff to develop strategic plans for the charity
  - With the Chief Executive, ensuring that the charity is run in accordance with the decisions of the trustees and the charity's governing document
  - Liaising with the relevant staff to draft agendas for trustee meetings and ensure that the business is covered efficiently and effectively in those meetings by observing the Administrative Regulations
  - Taking action on behalf of the Trust on matters which require urgent attention
  - Speaking with the press or other media on behalf of the Trust

- Acting as “spokesperson” for the Trust in other situations
- Representing the Trust at functions
- Representing the Trust on external bodies

### **3 Proposal**

- 3.1 The method of appointment is set out in the Trust’s Administrative Regulations and is described below.
- 3.2 The election of the Chair shall be the first business transacted at the first meeting of the new body of Trustees and at that meeting, until the Chair is elected, the Chief Executive, and failing him/her such Trustee as may be selected by the meeting, shall preside.
- 3.3 The method of election shall require that all nominations for the position of Chair shall be sought prior to the first ballot and no further nominations will be allowed after voting begins. Also prior to voting, nominees shall be permitted to address the meeting as to their candidature. However, no questions will be allowed. Voting shall be by secret ballot. Regardless of the number of candidates, each Trustee will vote for one candidate at each ballot. After the first ballot, the candidate who secures a clear majority of the total votes cast shall be elected. However, in the case of no clear majority, the lowest scoring candidate shall drop out and the second ballot will take place. This method shall continue until the appointment is made either by clear majority or a choice between two remaining candidates. In the case of an equality of votes, the Chair shall be elected by lot as between those who received equal votes and proceed on the basis that the person to whom the lot falls upon had received the additional vote.
- 3.4 The Vice Chair of the Trust shall substitute for the Chair as and when required and support him/her in fulfilling their duties. It is proposed that the same process be followed for the appointment of a Vice Chair.

### **4 Financial Implications**

- 4.1 The Trust Deed allows the Trust to “reimburse the Trustees out of the Trust Fund for all expenses reasonably incurred by them in connection with the Administration of the Trust.....”<sup>1</sup>
- 4.2 The Trust Deed allows the Trust to pay Trustees “such fees as are proper and reasonable”<sup>2</sup>, in addition to out of pocket expenses. In the past, an Allowance has been paid to the Chair of £5,000 per annum and to the Vice Chair of £2,500 per annum. A budget is in place to meet these costs for 2012/13.

<sup>1</sup> Deed of Trust Schedule of Powers Section 18

<sup>2</sup> Deed of Trust Schedule of Powers Section 17

- 4.3 The Charities and Trustee Investment (Scotland) Act 2005 ("the Act") Section 67 sets out the conditions under which a charity trustee may be remunerated. A copy of the relevant section is attached as Appendix A. The remuneration referred to in paragraph 4.2 is paid in terms of Section 67(3) of the Act.
- 4.4 The OSCR guidance on the Remuneration of Trustees states that "Charities that had Trustees receiving remuneration when the Act came into force in April 2006 and are not exempt from the conditions regarding remuneration **must review these arrangements**"<sup>3</sup>.
- 4.5 The Trust is in the process of a major re-organisation. It is therefore proposed that no remuneration is paid to the Chair and Vice Chair meantime, and that the position is reviewed when the new Trustee body is in place.

## 5 Recommendations

- 5.1 Trustees are asked to:
- (a) Appoint a Chair, through the process set out at 3.3.
  - (b) Appoint a Vice Chair, through the process set out at 3.3 and
  - (c) Agree not to pay any remuneration to the Chair and Vice Chair, and to review the situation when the new Trustee body is in place.

EMA/TA1  
5 April 2012

Report No: CT1205025-f

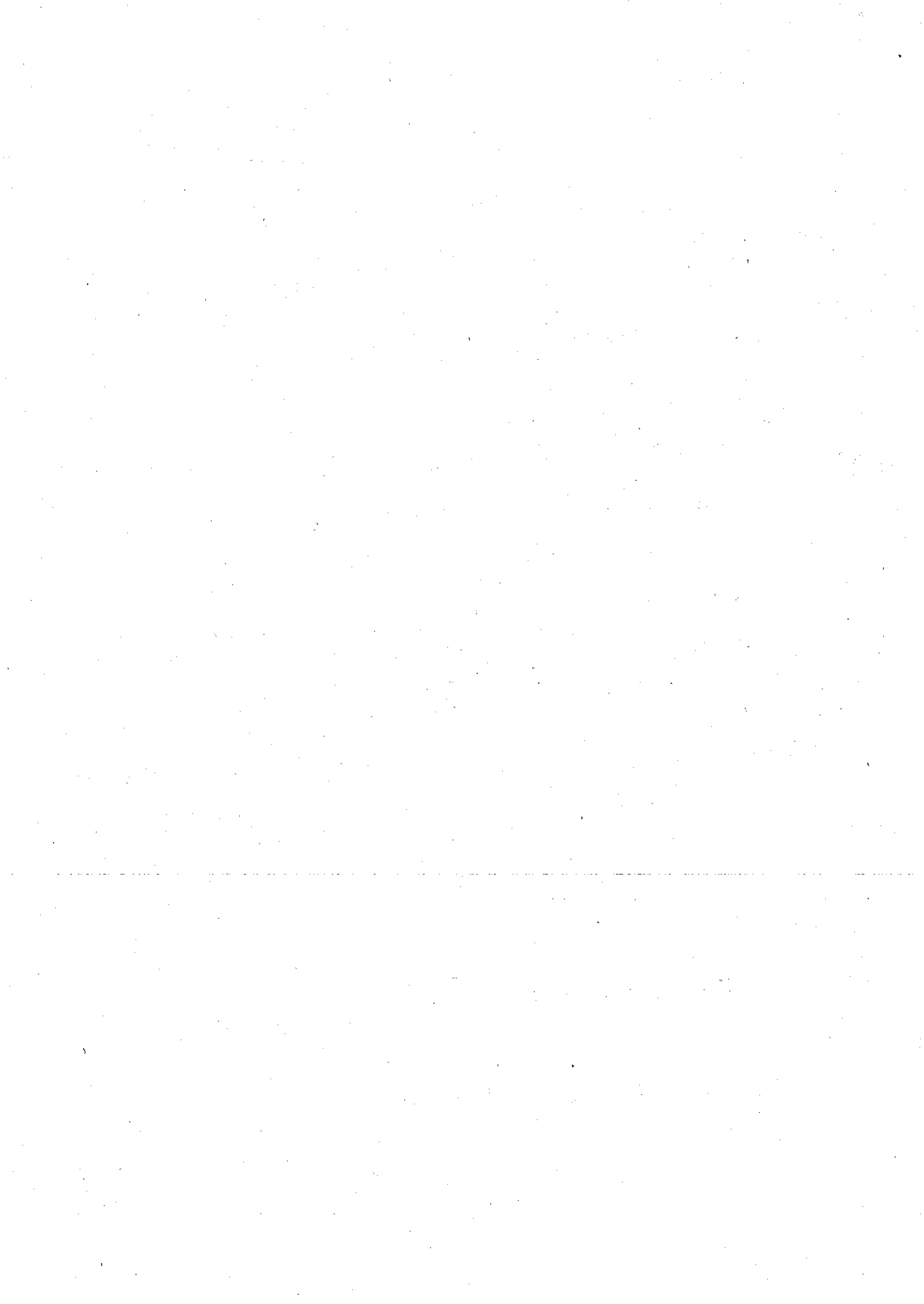
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<sup>3</sup> Guidance for Charity Trustees Section 5 para 5.2



Extract from the Charities and Trustee Investment (Scotland) Act 2005**67 Remuneration for services**

- (1) A charity trustee may not be remunerated for services provided to the charity (including services provided in the capacity as a charity trustee or under a contract of employment) unless subsection (2) entitles the trustee to be so remunerated.
- (2) Where a charity trustee of a charity—
  - (a) provides services to or on behalf of the charity, or
  - (b) might benefit from any remuneration for the provision of such services by a person with whom the trustee is connected,the person providing the services (the “service provider”) is entitled to be remunerated from the charity's funds for doing so only if the conditions set out in subsection (3) are met.
- (3) Those conditions are—
  - (a) that the maximum amount of the remuneration—
    - (i) is set out in a written agreement between the service provider and the charity (or, as the case may be, its charity trustees) under which the service provider is to provide the services in question, and
    - (ii) is reasonable in the circumstances,
  - (b) that, before entering into the agreement, the charity trustees were satisfied that it would be in the interests of the charity for those services to be provided by the service provider for that maximum amount,
  - (c) that, immediately after entering into the agreement, less than half of the total number of charity trustees of the charity fall within subsection (4), and
  - (d) that the charity's constitution does not contain any provision which expressly prohibits the service provider from receiving the remuneration.
- (4) A charity trustee falls within this subsection if the trustee is—
  - (a) party (in the capacity of a service provider) to a written agreement of the type described in subsection (3)(a)(i) under which any obligation is still to be fully discharged,
  - (b) entitled to receive remuneration from the charity's funds otherwise than by virtue of such an agreement, or
  - (c) connected with any other charity trustee who falls within sub-paragraph (a) or (b).
- (5) Nothing in subsections (1) or (2) prevents a charity trustee or other service provider from receiving any remuneration from a charity's funds which that service provider is entitled to receive by virtue of—
  - (a) any authorising provision of the charity's constitution which was in force on 15 November 2004,
  - (b) an order made by the Court of Session, or
  - (c) any enactment.
- (6) For the purposes of subsection (5)(a), an “authorising provision” is a provision which refers specifically to the payment of remuneration—
  - (a) to the service provider concerned,
  - (b) where that service provider is a charity trustee, to a charity trustee, or
  - (c) where that service provider is connected to a charity trustee, to any person so connected.
- (7) Where a charity trustee or other service provider is remunerated in contravention of this section, the charity may recover the amount of remuneration; and proceedings for its recovery must be taken if OSCR so directs.







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## REPORT

To: Shetland Charitable Trust

24 May 2012

From: Chief Executive

Report:CT1205026

### General Administration Power of Attorney

#### 1. Introduction

1.1 This report is presented to initiate the appointment of twelve Trustees of Shetland Charitable Trust ("the Trustees") as signatories in accordance with the Administrative Regulations adopted by Trustees on 18 March 2010 (Min Ref CT/18/10) and amended on 29 March 2012 (Min Ref CT/18/12).

#### 2. Present Position

2.1 Section IV para 9.6 of the Administrative Regulations requires the Trustees, at the first meeting of the Shetland Charitable Trust ("the Trust") after an election of Councillors of the Council, to execute a power of attorney appointing twelve Trustees to execute documents for and on behalf of the Trust.

2.2 Section IV para 9.7 provides that any document to be executed for and on behalf of the Trust shall be signed by any three of the twelve trustees appointed as described in paragraph 2.1 above.

#### 3. Financial Implications

3.1 There are no financial implications arising from this report.

#### 4. Recommendation

4.1 Trustees are recommended to nominate twelve of their number to be appointed to execute documents for and on behalf of the Trust.

Reference: EMA/TA1

Report Number CT1205026-f

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