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## **REPORT**

**To:** Shetland Charitable Trust

**Date** 11 September 2014

**From:** Chief Executive

**Report:** CT1409030

### **Financial Hardship Scheme – additional funding**

#### **1. Introduction**

- 1.1 This report requests Trustees to approve additional funding to meet the requirements of the Financial Hardship Scheme (formally known as the Christmas Grant Scheme).

#### **2. Background**

- 2.1 At a Trustee meeting on 27 February 2014, Trustees agreed a budget of £100,000 which would be used to assist the most vulnerable individuals who were currently in receipt of the Christmas Grant (CT02/14).
- 2.2 When the budget was agreed, the operational details of the scheme were still to be finalised.
- 2.3 At that time, the Chief Executive confirmed that “if additional resources were required for the Christmas Grant Scheme, a report would be presented to Trustees”.

#### **3. Present Position**

- 3.1 Officers have commenced the administration of the amended scheme with the first payments due to be made at the end of October 2014.
- 3.2 At this stage, it is estimated that 520 grants of £300 could be payable, totalling £156,000.
- 3.3 Additional funding may be required for external administration fees of £1,000 for undertaking Financial Hardship Assessments.

#### **4. Financial Implications**

- 4.1 It is estimated that £57,000 of additional funds will be required to complete the 2014 scheme.

## **5. Recommendations**

- 5.1 Trustees are requested to approve additional funding of up to £57,000 to enable the Financial Hardship Scheme to be completed.

Reference: AB/EM/DA9  
Date: 1 September 2014

Report Number CT1409030



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## REPORT

To: Shetland Charitable Trust

Date 11 September 2014

From: Chief Executive

Report: CT1409031

### **Amendment to Administrative Regulations**

#### **1. Introduction**

- 1.1 This report seeks to amend the Trust's Administrative Regulations to reflect the procedure to be adopted when there is a conflict of interest between the Trust and the Council.

#### **2. Background**

- 2.1 At their meeting on 28 March 2013, Trustees agreed to adopt the Trust's new Administrative Regulations, reflecting the new Governance Arrangements of the Trust. Attached as Appendix A
- 2.2 At their meeting on 26 June 2014, Trustees were asked to consider a report which presented a conflict of interest between the Trust and the Council in terms of Regulation 2.9. The Administrative Regulations require to be amended to record a process which should be followed when a similar conflict arises.

#### **3. Proposal**

- 3.1 It is proposed to amend Regulations 2.6.4 (Duties and Responsibilities of Chair) by inserting "e" as detailed in Appendix B  
and
- 3.2 amending Regulation 2.9 (Conflicts of Interest) by inserting a new section after Regulation 2.9.3 as detailed in Appendix B
- 3.3 Both these insertions will ensure there is clear process which deals with Conflicts of Interest between the Trust and the Council if they arise. The amendments are detailed in Appendix B attached.

#### **4. Financial Implications**

- 4.1 There are no financial implications arising from this report.

## **5. Recommendations**

- 5.1 Trustees are asked to approve the amendment to the Administrative Regulations attached as Appendix B.

Reference: AB/EM/TA1  
Date: 30 July 2014

Report Number CT1409031



**ADMINISTRATIVE REGULATIONS**

*SC027025*

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**Shetland Charitable Trust**  
**ADMINISTRATIVE REGULATIONS**

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## 1. CONSTITUTION

### 1.1 Terms of Reference

- 1.1.1 The Shetland Charitable Trust ("the Trust") is a charity registered in Scotland with charity number SC027025. It is governed by its Deed of Trust dated 13<sup>th</sup> and 14<sup>th</sup> September 2012 and registered in the Books of Council and Session on 27<sup>th</sup> September 2012 ("the Deed of Trust").
- 1.1.2 These Administrative Regulations are granted in furtherance of Clause (FOURTH) of the Deed of Trust ("these Regulations").

## **2. TRUSTEES OF THE TRUST**

### **2.1 Roles and Duties**

- 2.1.1 Trustees must set and thereafter implement the strategic aims, objectives and direction of the Trust. Trustees must exercise overall control over financial affairs and ensure the completion of the relevant statutory reports, returns and accounts.
- 2.1.2 Trustees must act in the interests of the Trust at all times. They must promote the success of the Trust in the way that they think, in good faith, would be most likely to help the Trust achieve its purposes.
- 2.1.3 Trustees must try, in good faith, to ensure that the Trust acts in a way which is consistent with its purposes as set out in the Deed of Trust.
- 2.1.4 Trustees must act with the care and diligence that it is reasonable to expect of a person who is managing the affairs of another person.
- 2.1.5 Trustees must manage conflicts of interest if they have (or can have) a direct or indirect interest which conflicts or might conflict with the interests of the Trust. They must put the interests of the Trust before those of anyone responsible for their appointment. They must also declare the nature and extent of any interest, direct or indirect, which they have in a proposed transaction or arrangement.
- 2.1.6 Trustees must ensure that the Trust complies with any direction, requirement, notice or duty imposed on it as a result of the Charities and Trustee Investment (Scotland) Act 2005 (“the Charities Act”).
- 2.1.7 Trustees must take any steps that are reasonably practicable to ensure that any breach of duty by a fellow Trustee is corrected and not repeated and also that any Trustee who seriously or persistently breaches his/her duties is removed as a Trustee.
- 2.1.8 Trustees must act within their powers and only exercise those powers for the purposes for which the powers were granted.
- 2.1.9 Trustees must exercise independent judgement. They must not accept benefits from third parties which might give rise to a conflict of interests and which are given because of the Trustee’s position or because of an action (s)he can take.
- 2.1.10 Trustees must attend meetings regularly and, unless a task is delegated, must act together to take decisions affecting the Trust. Trustees nonetheless also retain ultimate responsibility for even delegated decisions.
- 2.1.11 Trustees must act in accordance with not only charity law but the law in general.
- 2.1.12 Trustees must take professional advice where appropriate or necessary.

### **2.2 Code of Conduct**

- 2.2.1 All Trustees shall be required to accept and sign and return to the Trust the ‘Code of Conduct’ set out in Appendix A.
- 2.2.2 Trustees may be subject to another Code of Conduct, for example the Councillors Code of Conduct or a Code of Conduct which applies to him or her by virtue of a professional body of which he or she is a member. In the event that any such code or other duty to which a Trustee is subject to imposes a higher standard than imposed by these Regulations, then that Trustee must follow that higher standard

## **2.3 Appointment of Trustees**

2.3.1 All Trustees shall be appointed, and retire, in accordance with the Schedule of Governance Arrangements appended to the Deed of Trust an extract of which is reproduced as Appendix C.

## **2.4 Induction**

2.4.1 All new Trustees other than those selected or appointed for a second successive term shall receive an induction pack which will include the following:-

- the Trust's Deed of Trust
- the most recent audited accounts
- the Code of Conduct
- the Register of Interest Form
- guidance on duties as Trustees.

In addition, such induction pack may include information on the Trust's strategy and administration and copies of any policies and other guidance as is appropriate to include.

2.4.2 All new Trustees other than those appointed for a second successive term shall have a meeting with at least one of the Chair, the Vice Chair, and the Chief Executive and shall be required to undertake introductory Trustee training which will be provided.

## **2.5 Election of Chair**

2.5.1 The election of the Chair will be the first business transacted at the first Trustees' meeting following the retirement of the outgoing Chair. At that meeting, until the Chair is elected, the outgoing Chair, failing whom a Trustee selected by the meeting, shall preside. A person holding the office of Chair shall be eligible for re-election as Chair for one further term thereafter.

2.5.2 Prior to voting, nominations for the position of Chair shall be sought and nominees shall be permitted to address the meeting as to their candidature. No questions will be permitted in response, and no further nominations will be allowed after voting begins.

2.5.3 If there is only one candidate, (s)he shall be elected. If there is more than one candidate, 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.

2.5.4 If a casual vacancy arises in the office of Chair, an election to fill the vacancy shall be held as soon as practicable. The Vice Chair of the Trust shall act as the Chair until such time as a new Chair is elected. The notice of the Trustees' meeting at which the election is to be held shall specify the filling of the vacancy as an item of business and election shall take place in the usual manner.

## **2.6 Duties and Responsibilities of Chair**

- 2.6.1 The duties of the Chair of the Trust are set out below.
- 2.6.2 The Chair's overall purpose is to provide leadership and direction to the Trustees, enabling them to fulfil their responsibilities for the overall governance and strategic direction of the Trust and also for developing the Trust's aims, objectives and goals in accordance with the governing document, legal and regulatory guidelines.
- 2.6.3 The Chair will work with the Chief Executive to ensure that Trustee decisions are acted upon and the Trust is managed in an effective manner.
- 2.6.4 The Chair's main responsibilities are:
- a. chairing Trust meetings;
  - b. leading the trustees and members of the staff to develop strategic plans for the Trust;
  - c. with the Chief Executive, ensuring that the Trust is run in accordance with the decisions of the trustees and the Trust's governing document;
  - d. liaising with the relevant staff to draft agendas for trustee meetings and ensure that the business is covered efficiently and effectively in those meetings.
- 2.6.5 Other duties of the Chair are:
- a. taking action on behalf of the Trust on matters which will not admit of delay;
  - b. speaking with the press or other media on behalf of the Trust;
  - c. acting as "spokesperson" for the Trust in other situations;
  - d. representing the Trust at functions;
  - e. representing the Trust on external bodies.

## **2.7 Vice Chair**

- 2.7.1 A Vice Chair will be elected in the same manner as the Chair. The Vice Chair shall substitute for the Chair as and when required and support the Chair in fulfilling the duties set out above. Anything authorised or required to be done by, to or before the Chair may, in the Chair's absence or where the Chair's authorisation has been granted, be done by, to or before the Vice Chair. The Vice Chair will be eligible for re-election for one further term thereafter.

## **2.8 Advisory Councils or Committees**

- 2.8.1 The Trustees have the power in terms of the Deed of Trust to create an Advisory Council or Councils or Committee or Committees (referred to in these Regulations as "committees") to act along with the Trustees and/or advise them on all or any of the objects of the Trust provided always that the creation, constitution, membership and continuance of any such committees shall be entirely at the discretion of the Trustees.



## 2.9 Conflicts of Interest

- 2.9.1 Trustees have a duty to manage any conflicts of interest. Conflicts of interest may create problems, such as:
- (a) inhibit free discussion;
  - (b) result in decisions or actions that are not in the interests of the Trust; and
  - (c) risk giving the impression that the Trust has acted improperly.
- 2.9.2 In terms of Section 66 (c) of the Charities Act Trustees must:-
- “in circumstances capable of giving rise to a conflict of interest between the Trust and any person responsible for the appointment of the Trustees:-
- (i) put the interests of the Trust before those of the other person; or
  - (ii) where any other duty prevents the Trustee from doing so, disclose the conflicting interest to the Trust and refrain from participating in any deliberation or decision of the other Trustees with respect to the matter in question.”.
- 2.9.3 In terms of the general law, conflicts of interest also arise in circumstances where there is a conflict or the possibility of a conflict of interest between:-
- (a) the personal interests of a Trustee and those of the Trust; and
  - (b) the concerns of two different organisations to which a Trustee is affiliated.
- 2.9.4 Generally, in deciding whether a conflict, or a potential conflict, of interests exists, Trustees should consider whether a member of the public, with knowledge of the relevant facts, would reasonably regard the interest as so significant that it would be likely to prejudice a Trustee’s discussion or decision-making in his/her role as a Trustee.

### Declarations of Interest

- 2.9.5 Accordingly, Trustees are asked to declare their interests, as follows:-
- (a) current employment and any previous employment in which they continue to have a financial interest;
  - (b) appointments (voluntary or otherwise) eg trusteeships, directorships, local authority membership, tribunals, etc.;
  - (c) membership of any professional bodies, special interest groups or mutual support organisations;
  - (d) ownership or lease of land and property;
  - (e) ownership and interests in companies (with limits specified);
  - (f) any tenancy of premises owned by the Trust;
  - (g) gifts or hospitality offered by external bodies and whether this was declined or accepted in the last twelve months;
  - (h) any use, or care for a user of, the Trust’s services;
  - (i) any contractual relationship with the Trust or its subsidiary.

Interests will be recorded on the Trust’s Register of Interests, which will be maintained by the Chief Executive.

2.9.7 The information provided will be processed in accordance with data protection principles and data will be processed only to ensure that Trustees act in the best interests of the Trust. The information provided will not be used for any other reason.

### **Management of Conflicts of Interest at Trustees' Meetings**

2.9.8 Trustees need to declare an interest, refrain from taking part in the deliberations and withdraw from the room in the following circumstances:

- (a) Trustees or a person with whom a Trustee is connected are about to enter into a transaction (for example a contract or a grant, etc) with the Trust.
- (b) the Trustee or a person with whom the Trustee is connected is a user of the Trust's Services.

2.9.9 Where the following persons are "connected" with the Trustee

- (a) Any person
  - (i) to whom the Trustee is married;
  - (ii) who is a civil partner of the Trustee; or
  - (iii) with whom the Trustee is living as husband and wife or, where the Trustee and the other person are of the same sex, in equivalent relationship.
- (b) Any child, parent, grandchild, grandparent, brother or sister of the Trustee (and any spouse of any such person)
- (c) Any institution which is controlled (whether directly or through one or more nominees) by
  - (i) the Trustee;
  - (ii) any person with whom the Trustee is connected by virtue of paragraph (a), (b), (d) or (e) or
  - (iii) two or more persons falling within sub-paragraph (i) or (ii), when taken together.
- (d) A body corporate in which
  - (i) the Trustee has a substantial interest;
  - (ii) any person with whom the Trustee is connected by virtue of paragraph (a), (b), (c) or (e) has a substantial interest or
  - (iii) two or more persons falling within sub-paragraph (i) or (ii) when taken together have a substantial interest.
- (e) A Scottish partnership in which one or more of the partners is
  - (i) the Trustee or
  - (ii) a person with whom the Trustee is virtue of paragraph (a) or (b) connected.

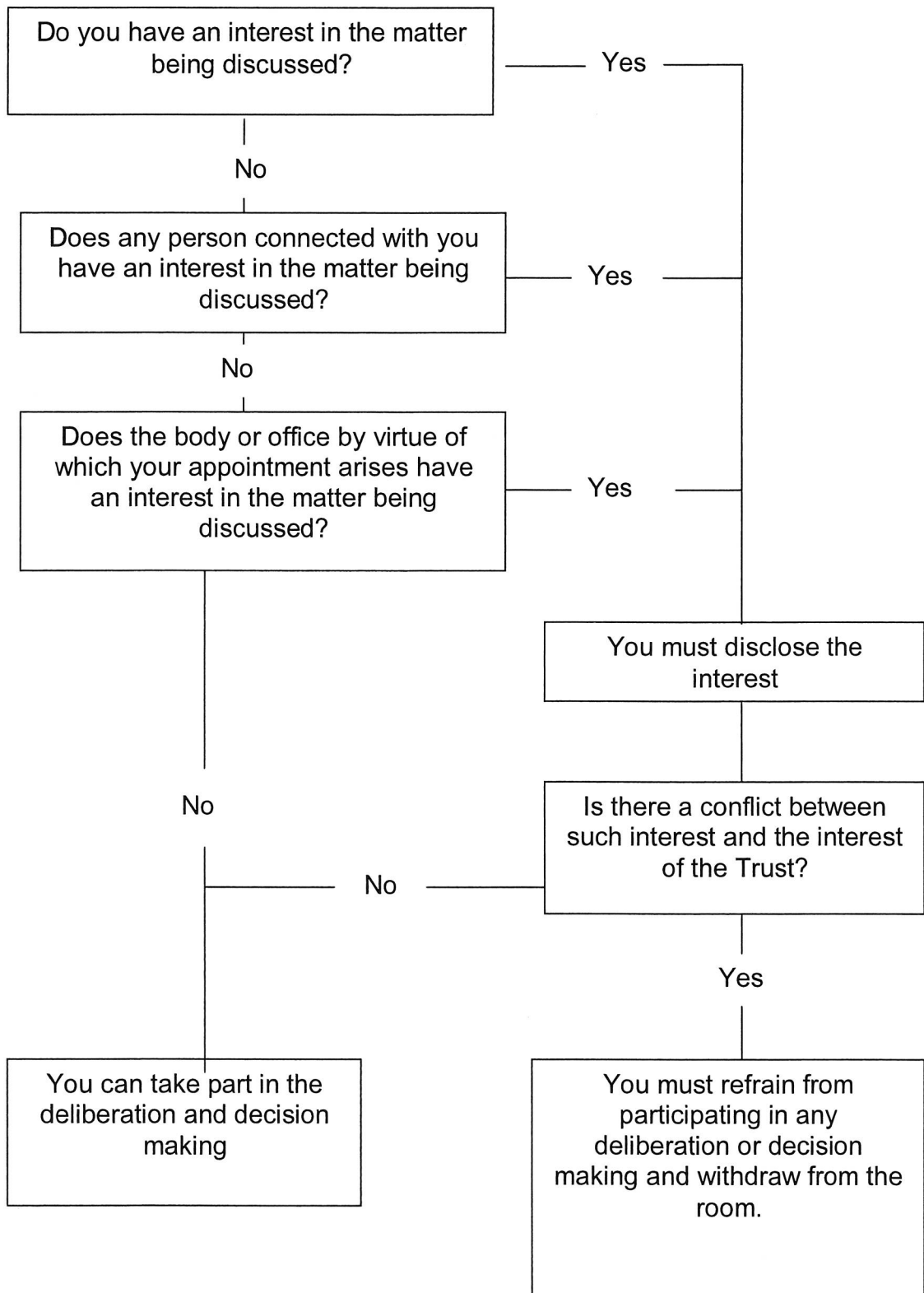
2.9.10 For the purposes of the foregoing a person who is

- (a) (i) another person's stepchild, or
- (ii) brought up or treated by another person as if the person were a child of the other person,  
is to be treated as that person's child;

- (b) able to secure that the affairs of an institution are conducted in accordance with the person's wishes is to be treated as being in control of the institution; and
- (c)
  - (i) interested in shares comprised in the equity share capital of a body corporate of a nominal value of more than one-fifth of that share capital; or
  - (ii) entitled (whether directly or through one or more nominees) to exercise, or control the exercise of, more than one-fifth of the voting power at any general meeting of a body corporate, is to be treated as having substantial interests in the body corporate.

2.9.11 If a Trustee fails to declare an interest that is known to the Chair of the Trust, the Chair will declare that interest at the outset of the discussion.

2.9.12 The Office of the Scottish Charity Regulator ("OSCR"), established by the Charities Act, has published guidance for Trustees which deals with, amongst other things, the general duties of Trustees and conflicts of interest. It is worth noting that this is OSCR's interpretation of the duties in terms of the Charities Act and does not itself have any binding effect on Trustees. It is however published guidance circulated by OSCR and ought to at least be considered when a decision is being made with regard to whether or not a conflict of interest exists. A flow chart follows, summarising how a Trustee ought to manage Conflicts of Interest.



### **3. MANAGEMENT OF THE TRUST**

#### **3.1. Composition and Function of the Management**

- 3.1.1 Trustees shall ensure that the following services are always available to the Trust:
- Co-ordination and management;
  - Financial services
  - Investment services.
  - Trust and taxation legal services; and
  - Administrative and secretarial services
- 3.1.2 The Trustees shall appoint Senior Management and such professional advisers to carry out the functions of the Trust.
- 3.1.3 Employees and/or officials acting on behalf of the Trust and applicants for employment may not canvass Trustees.
- 3.1.4 No employee and/or official acting on behalf of the Trust may attend any unofficial meeting of a group of Trustees.

## **4. BUSINESS OF THE TRUST**

### **4.1 Trustee Meetings**

- 4.1.1. Dates of Trust meetings will be set and notified to the Trustees in November, for the following year.
- 4.1.2. A special meeting of the Trustees may be called at any time by:  
the Chair of the Trust; or  
on the request of 6 Trustees.
- 4.1.3. On receipt of a requisition under Regulation 4.1.2, the Chief Executive or such other person as is authorised by him/her shall call a special meeting, which shall be held within 14 days of the receipt of such requisition by the Chief Executive or such other person as is authorised by him/her.
- 4.1.4. Unless specified otherwise in these Regulations, no business shall be transacted at a meeting of the Trust unless a quorum is present being at least 6 Trustees present, of which 3 must be Appointed Trustees. In determining whether Trustees are present at a meeting of the Trust, it is irrelevant where any Trustee is or how they communicate with each other.
- 4.1.5. If the Chair finds that the quorum is wanting, the fact shall be announced and a period of 30 minutes shall elapse after which, if a quorum is then wanting, the meeting shall end, and the remaining business be carried forward.
- 4.1.6. No business shall be transacted at a meeting of the Trust other than that specified in the summons relating thereto.
- 4.1.7. Notwithstanding paragraph 4.1.6 hereof, at his or her discretion the Chair may bring forward at a meeting of the Trust any business.
- 4.1.8. Four clear days before a meeting the agenda paper for the meeting shall be sent to the Trustees of the Trust, and no other business, unless the Chair judges it urgent, shall be brought before the meeting.
- 4.1.9. At each Trustee Meeting there shall be a report (verbal or written) tendered by any committees and working groups of the Trust.
- 4.1.10. The minutes of any committee or working group meetings shall be circulated with the papers for Trustee Meetings.

### **4.2 Conduct of Meetings**

- 4.2.1. At a meeting of the Trust the Chair, if present, shall preside. If the Chair is absent, the Vice Chair of the Trust, if present shall preside. If the Chair and Vice Chair are both absent, another Trustee chosen by the Trustees present shall preside.
- 4.2.2. The ruling of the Chair (in which he shall have the benefit of the advice of the Chief Executive or such other person as is authorised by him) as to the construction or application of the Regulations shall not be challenged at any meeting of the Trust. The Chair may at any time, if he or she thinks it desirable in the interests of order, adjourn a meeting or suspend a sitting of the Trust for a time to be named by him or her.
- 4.2.3. Unless otherwise specified herein, all questions coming or arising before the Trust shall be decided by a majority of the Trustees present and voting thereon at a meeting of the Trust.

- 4.2.4 In the case of an equality of votes the person presiding at the meeting shall have a second or casting vote except where the matter which is the subject of the vote relates to the appointment to any particular office or committee or sub-group, in which case the decision shall be by lot.
- 4.2.5 If a Trustee disregards the chair, the Chair may order his/her removal from the room, or suspend the sitting for a specified time.
- 4.2.6 All meetings of the Trust shall be open to the public provided that the Trust may by resolution exclude the public from a meeting (whether during the whole or part of the proceedings) whenever, in the sole opinion of the Trustees, publicity would be prejudicial to the Trust by reason of the confidential nature of the business to be transacted or for other special reasons stated in the resolution and arising from the nature of that business or of the proceedings.
- 4.2.7 After warning, the Chair may order the removal from the room of any member of the public causing disturbance.

### **4.3 Minutes**

- 4.3.1 Minutes will be taken at all Trustees' meetings, all committee meetings, and the Annual General Meeting.
- 4.3.2 In the case of a Trustee or committee meeting, the minutes will be circulated to all Trustees, and submitted to and signed at the next Trustee or committee meeting as appropriate. In the case of the Annual General Meeting, the minutes will be signed by the Chair once approved and circulated to all Trustees with the notice of the following Annual General Meeting. Any minute purporting to be so signed shall be received in evidence without further proof.

### **4.4 Confidentiality**

- 4.4.1 Documents containing information which in the interests of the Trust ought not to be divulged will be marked as confidential.
- 4.4.2 The Chief Executive or such other person as is authorised by him/her shall classify all documents for presentation to the Trust and any committees or sub-groups of the Trust, and mark accordingly those classified as confidential, such classification being subject to the approval of the Trust and/or the relevant committee or sub-group as appropriate. He or she shall remove this marking when it is no longer, in his or her view, required, for a complete document or for part of it. Confidential documents or their contents shall not be referred to in public and their contents shall in no circumstances be quoted in public or divulged. The advice or opinions of employees and/or officials acting on behalf of the Trust, as opposed to factual information provided by them, contained in documents, whether classified or not, shall not be divulged at any time as being those of the employees and/or officials acting on behalf of the Trust.
- 4.4.3 The production in response to a request by a Trustee of a specified document or documents, whether circulated or not, which has not or have not been presented to the Trust or a committee shall be at the discretion of the Chair of the Trust.

## **4.5 Signing of Documents**

4.5.1 Any document to be executed for and on behalf of the Trust shall be signed by any 3 of the 15 Trustees, and these signatures shall be full and sufficient certificate that the document has been duly and validly executed for and on behalf of the Trust in compliance with all the regulations of the Trust.

## **4.6 Expenses**

4.6.1 Each Trustee shall be entitled to reimbursement of all expenses reasonably incurred by him or her in connection with the necessary performance of his or her duties as Trustee.

4.6.2 Any Trustee who wishes to submit an expenses claim for incidental expenses must do so in any format set down by the Chair. Receipts must be attached and where receipts are not available, an explanation must be given for the failure to produce a receipt.

4.6.3 The Chair shall be entitled to introduce a requirement for prior approval of expenses or a cap on the maximum level of permitted expenses in relation to expenses for all or some of the Trustees and in relation to some or all expenses. Where the procedure does not apply uniformly to all Trustees, there must be a reasonable justification for it being introduced in a targeted manner.

4.6.4 It shall be the duty of the Chief Executive's office to keep a record of all expense claims.

## **5. AMENDMENT**

### **5.1 Amendment of Administrative Regulations**

5.1.1 Amendments may be effected by submitting a written proposal to a trust meeting, notice of which has been circulated to all Trustees in advance of the meeting.



## **Appendix A**

### **CODE OF CONDUCT FOR TRUSTEES**

I will respect and uphold the objects of the Trust, as set out in the Deed of Trust.

I recognise that it is included in this ambition that:

#### **General Responsibilities of Trustees**

- I will act within the Deed of Trust and the law and will abide by the policies and procedures of the Trust. It is my responsibility to have a sound knowledge of the contents of the Deed of Trust, the Administrative Regulations, relevant policies, plans and procedures;
- I will support the objects of the Trust and will champion it using any skills or knowledge I have to further that mission, and I will seek expert advice where appropriate;
- I will help to set and maintain the Trust's values and standards;
- I will be an active Trustee, making my skills, experience and knowledge available to the Trust, and I will seek to do what additional work I can outside Trustee meetings, including sitting on sub-committees and sub-groups. I will make sure that I am able to commit sufficient time to ensure that I am an effective member of the Board of Trustees;
- I will respect organisational, board and individual confidentiality, while never using confidentiality as an excuse not to disclose matters that should be transparent and open;
- I will develop and maintain a sound and up-to-date knowledge of the Trust, its financial, risk and business planning and its environment. This will include having an understanding of how the Trust functions, the social, political and economic environment in which it operates, scrutinising its goals and objectives, monitoring the reporting of performance and progress and understanding the nature and extent of its work;
- I will use the Trust's resources responsibly and when claiming expenses will do so in line with the Trust's procedures;
- I will seek to be accountable for my actions as a Trustee of the Trust and will submit myself to whatever scrutiny is appropriate;
- I accept my responsibility to ensure that the Trust is well run and will raise issues and questions in an appropriate and sensitive way to ensure that this is the case.

#### **Managing Interests**

I will not gain, materially or financially, from my involvement with the Trust unless specifically authorised to do so by the board in accordance with the terms of the Charities and Trustee Investment (Scotland) Act 2005, nor will I gain benefits for family, friends or other organisations to which I belong.

I will act in the best interests of the Trust as a whole, and not as a representative of any group. I will consider what is best for the Trust and its present and future beneficiaries and stakeholders and will avoid bringing the Trust into disrepute.

Unless authorised, I will not put myself in a position where my personal interests conflict with my duty to act in the interests of the Trust. Where there is a conflict of interest I will ensure that this is managed effectively in line with the Trust's policy. I understand that a failure to declare a conflict of interest may be considered to be a breach of this code.

I will inform the Chief Executive of any changes to the list of organisations of which I have board level membership or where I have responsibilities which may be seen to conflict with my role as a Trustee of the Trust.

I will inform the Chief Executive if I accept appointments to other organisations.

## **Meetings**

I recognise that as a Trustee it is mandatory to attend all appropriate meetings and other appointments of the Trust or give apologies.

I will prepare fully for all meetings and work for the Trust. This will include reading papers, querying anything I do not understand, thinking through issues before meetings and completing any tasks assigned to me in the agreed time.

I will actively engage in discussion, debate and voting in meetings; contributing in a considered and constructive way, listening carefully, challenging sensitively and avoiding conflict.

I will participate in collective decision making, accept a majority decision of the Board of Trustees and will not act individually unless specifically authorised to do so.

Where I am a member of a committee or sub-group, I will take all reasonable steps to ensure that other Trustees are kept fully up-to-date with information upon which decisions may be taken.

I will take joint responsibility for decisions taken, including those determined by a nominated committee and sub-groups and recognise that I am accountable to stakeholders. I will submit to whatever scrutiny is appropriate.

## **Governance**

I will actively contribute towards improving the governance of the Board, participating in induction and training and sharing ideas for improvement with the Board of Trustees.

I will help to manage the Trust with care, diligence and skill, taking professional advice where appropriate. I understand that I am not expected

to possess expertise other than that which might reasonably be expected of me.

**Relations with others**

I will endeavour to work considerately and respectfully with all those I come into contact with at the Trust. I will respect diversity, different roles and boundaries, and will avoid causing intentional offence.

I recognise that the roles of Trustees, volunteers and staff of the Trust are different, and I will seek to understand and respect the difference between these roles.

I will seek to support and encourage all those I come into contact with at the Trust who are acting in the Trust's interests. In particular I recognise my responsibility to support the Chair, the Chief Executive and the Senior Management Team.

I will not make public comments about the Trust unless authorised to do so by the Chair or the Chief Executive. Any public comments I make about the Trust will be considered and in line with organisational policy, whether I make them as an individual or as a Trustee.

**Ceasing to be a Trustee**

I understand that substantial breach of any part of this code may result in procedures being put in motion that may result in my being asked to resign from the Board of Trustees. Should this happen I will be given the opportunity to be heard.

If I wish to resign as a Trustee at any time, I will inform the Chair in advance in writing, stating my reasons for leaving and will agree to participate in a recorded exit interview.

Signed \_\_\_\_\_

Name \_\_\_\_\_

Date \_\_\_\_\_

## NOTES

### For Trustees:

This Code has been written in accordance with the Office of the Scottish Charity Regulator's "Guidance for Trustees", the Scottish Arts' Council's handbook on "Care Diligence and Skill" and The Trustee Network's booklet "Codes of Conduct for Trustees".

The purpose of this Code of Conduct is to ensure consistent application of the values and ethos of the Trust and set out the relevant standards and commitments expected of all Trustees.

### For Prospective Trustees:

All new Trustees will be provided with information about what is expected of them in relation to time commitment, committee membership and involvement outside Trustees' meetings, together with copies of relevant policy documents. Opportunities will be provided to speak to an existing Trustee.

### For the Trust:

The Senior Management Team of the Trust will:

- provide the Board of Trustees with timely and relevant information in order to allow the Board to govern well;
- provide the Board with advice when necessary, ensuring that external professional advisors are available as and when needed;
- work in partnership with the Board to ensure that they fulfil all of their statutory and legal responsibilities;
- invest time, money and other resources in order to help support and further develop good governance;
- provide the Board with the necessary administrative and other support that it will need to govern well, including its development needs; and
- reimburse Trustees' out-of-pocket expenses incurred in the course of their duties as Trustees in accordance with the Trust's procedures. Trustees may waive all or part of these if they so choose. Such expenses will be in line with the Trust's policy. All expense claims to be in accordance with the standing order on expenses.

## Appendix B

### Register of Interest Form

Name: \_\_\_\_\_

As a Trustee of Shetland Charitable Trust, I have set out below my interests in accordance with the Trust's Code of Conduct.

<b>Current employment and any previous employment in which you continue to have a financial interest</b>	
<b>Appointments (voluntary or otherwise) e.g. trusteeships, local authority membership, tribunals etc.</b>	
<b>Membership of any professional bodies, special interest groups or mutual support organisations</b>	
<b>Ownership or lease of land and property</b>	
<b>Investments in unlisted companies, partnerships and other forms of business, major shareholdings</b>	
<b>Any tenancy of land owned by the Trust</b>	
<b>Any gifts of hospitality offered to you by external bodies and whether this was declined or accepted in the last twelve months</b>	
<b>Any contractual relationship with the Trust</b>	
<b>Any use, or care for a user of, the Trust's services</b>	
<b>Any other conflicts not covered by the above</b>	

To the best of my knowledge, the above information is complete and correct.

I undertake to update as necessary the information provided, and to review the accuracy of the information on an annual basis. I give my consent for it to be used for the purposes described in the Code of Conduct and for no other purpose.

Signed: \_\_\_\_\_

Position with Trust: \_\_\_\_\_

Date: \_\_\_\_\_

**Note to Trustees completing the form**

Please give details of the interest and whether it applies to you or, where appropriate, a member of your immediate family or an individual or organisation with which you have a close personal connection.

## Appendix C

### SCHEDULE OF GOVERNANCE ARRANGEMENTS

#### 1 Definitions:-

In this Schedule of Governance Arrangements:-

“Appointed Trustee” means a trustee appointed or re-appointed by the Trustees under Paragraph 4 and shall include the First Appointed Trustees unless the context requires otherwise;

“Appropriate Officer” means the Chief Executive of Shetland Islands Council, or other officer designated by Shetland Islands Council for the purposes of this Schedule;

“Councillor” means an elected member of Shetland Islands Council;

“Councillor Trustee” means a Councillor appointed or re-appointed under Paragraph 5 and shall include the First Councillor Trustees unless the context requires otherwise;

“Existing Trustees” means the granters of the 2012 Deed of Trust and their successors;

“Effective Date” means such date as shall be determined by the Existing Trustees and shall be not later than 31st March 2013 and in the event of no determination by the Existing Trustees, 31st March 2013; per Trustee Meeting of 13<sup>th</sup> December 2012, the Effective Date was determined as 20<sup>th</sup> February 2013.

“First Appointed Trustee” and “First Councillor Trustee” means a trustee appointed as such under Paragraph 9;

“Local Government Election” means an ordinary election of councillors to Shetland Islands Council;

“Schedule” means this Schedule of Governance Arrangements;

“Selection Panel” means such persons appointed by the Trustees under Paragraph 7;

“Shetland Islands Council” means Shetland Islands Council constituted in terms of the Local Government etc (Scotland) Act 1994 and its statutory successors from time to time as such local or other governmental authority representative of the Shetland Islands or the inhabitants of the area;

“Term” means for Appointed Trustees the term of office from the date of appointment until retiral as specified in Paragraph 4(c) and for Councillor Trustees the term of office from the date of appointment until retiral as specified in Paragraph 5(b);

“Trustees” includes Appointed Trustees, First Appointed Trustees, Councillor Trustees and First Councillor Trustees and references to Trustees shall include the Existing Trustees and the Remaining *ex officio* Trustees as defined in sub-paragraph 9(c)(i) unless the context requires otherwise.

## **2 Trustees**

Trustees shall be principally resident in the Shetland Islands and in the event that any Trustee ceases to be so resident such Trustee shall be deemed to have demitted office as a Trustee on the date he ceases to be so resident.

## **3 Number and Body of Trustees**

Subject to the provisions of Paragraph 9 relating to the transition to the new governance arrangements:-

- (a) the Trustees shall normally be fifteen in number and any vacancy shall be promptly filled;
- (b) the body of Trustees shall be made up of seven Councillor Trustees and eight Appointed Trustees;
- (c) notwithstanding any vacancy in the number of Trustees at all times there shall be deemed to be a full complement of Trustees;
- (d) no Trustee may serve for more than two consecutive Terms and once a Trustee has demitted office there must then be a break of at least two years before any subsequent Term. Any Trustee re-appointed following a break of two years will be deemed not to have served any prior term for the purposes of this Schedule.

## **4 Appointed Trustees**

- (a) The Trustees shall, on the recommendation of the Selection Panel, appoint Appointed Trustees.
- (b) Subject to sub-paragraph (c) below, Appointed Trustees shall serve a Term and shall be eligible for re-appointment for one further Term thereafter.
- (c)
  - (i) One half of the First Appointed Trustees appointed under Paragraph 9(a)(i) shall retire on 30th November, 2014 and the remaining one half shall retire on 31st May 2019.
  - (ii) Appointed Trustees appointed on the retiral of the First Appointed Trustees due to retire on 30th November 2014 shall retire on 31st May 2019.
  - (iii) Appointed Trustees appointed as and from 31st May, 2019 shall retire on the 31st May occurring every fourth year after 31st May, 2019.
- (d) In the event (i) that all vacancies have not been filled, or (ii) of any vacancy occurring by the death, resignation or otherwise of any Appointed Trustee before the completion of his Term, on the recommendation of the Selection Panel, the Trustees may appoint any person to fill the vacancy and such Appointed Trustee shall retire when the Term of the vacancy being filled would in ordinary course have expired and shall be deemed to have served one Term on such retiral.



- (e) No Councillor may be an Appointed Trustee and in the event that any Appointed Trustee, during his Term is elected as a Councillor, he will demit office as an Appointed Trustee.

## **5 Councillor Trustees**

- (a) Shetland Islands Council may by notice in writing, signed on its behalf by an Appropriate Officer and given to the Trust appoint a Councillor Trustee or Councillor Trustees.
- (b) Councillor Trustees shall retire one calendar month after the date of the Local Government Election next following the date on which they took up office as a Councillor Trustee.
- (c) In the event that a Councillor Trustee, other than a Councillor Trustee retiring as a Councillor on the day on which the poll is held at the Local Government Election next following the day on which he was elected, ceases to be a Councillor whether by death, resignation as a Councillor or otherwise he shall be deemed to have demitted office as a Trustee on such date as he demits office as Councillor.
- (d) In the event (i) that all vacancies have not been filled following either the Effective Date or a Local Government Election, or (ii) of any vacancy occurring in the number of Councillor Trustees whether by death, resignation as a Trustee, demitting office in terms of sub-paragraph (c) above or otherwise of such Councillor Trustee before the completion of his Term, Shetland Islands Council may appoint a Councillor to fill such vacancy and such Councillor Trustee shall retire one calendar month after the date of the Local Government Election next following the date on which he took up office as a Councillor Trustee and shall be deemed to have served one Term on such retiral.

## **6 Quorum, Chair and Trustees' Meetings**

- (a) No business shall be transacted at a meeting of the Trustees unless a quorum is present and any and all such business shall be decided by a majority of the Trustees present and voting thereon. In the event of an equality of votes, the Chair of the Trust, or in his absence the Vice-Chair, or in the absence of both, the person presiding at the meeting shall have the second or casting vote.
- (b) The quorum for a meeting of the Trustees shall be six of whom at least three must be Appointed Trustees.
- (c) There shall be a Chair and Vice Chair of the Trust. The Chair and Vice Chair shall be elected by the Trustees for the remainder of their current Term and shall be eligible for re-election for a further Term thereafter.
- (d) Trustees shall be required to attend in person at least one-half of Trustee meetings in each financial year of the Trust and if they do not such failure to attend may be treated as grounds on which the remaining Trustees may remove such Trustee by a resolution passed by a 75% majority of those attending and voting thereon.

## **7 Selection Panel**

- (a) The Trustees shall establish a Selection Panel to guide the Trustees in relation to the selection of appropriate individuals for appointment as Appointed Trustees.
- (b)
  - (i) The Selection Panel established in relation to the selection of individuals for appointment as the First Appointed Trustees shall comprise an independent Chair appointed by the Trustees but who shall not be a Trustee of the Trust and two existing Trustees at least one of whom must not be a Councillor.
  - (ii) Thereafter, the Selection Panel so established shall comprise an independent Chair appointed by the Trustees but who shall not be a Trustee of the Trust and two Trustees at least one of whom must be an Appointed Trustee.

## **8 Annual General Meetings**

- (a) An Annual General Meeting shall be held in public once in every financial year at such time (within a period of not more than 15 months after the holding of the last Annual General Meeting) and place as may be determined by the Trustees.
- (b) The Chair, or in his absence for any reason the Vice-Chair, or in the absence of both for any reason a Trustee present and chosen by the other Trustees present shall preside as Chair of the Annual General Meeting.
- (c) At least 21 clear days' notice must be given of the Annual General Meeting, such notice being published on the Trust's website and in a local newspaper specifying the time and place of the meeting.
- (d) The purpose of the Annual General Meeting will be to present the Annual Report of the Trustees and such other business as the Trustees may decide.

**Proposed Amendment to Section 2.6 and 2.9 of Shetland Charitable Trust  
Administrative Regulations adopted on 28 March 2013.**

**2.6 Duties and Responsibilities of the Chair**

Insert after Regulation 2.6.4:-

- “e. manage matters relating to conflicts of interest between the Trust and the Council in terms of Regulation 2.9”

**2.9 Conflicts of Interest**

Insert after Regulation 2.9.3:-

“2.9.4 If, in the opinion of the Chair, or if the Chair is a Councillor Trustee, the Vice Chair, or if both the Chair and the Vice Chair are Councillor Trustees an Appointed Trustee chosen by the Appointed Trustees, in consultation with the Chief Executive, circumstances arise capable of giving rise to a conflict of interest between the Trust and the Council then:-

2.9.4.1 the Chief Executive will advise the Trustees that such circumstances have arisen and the nature of those circumstances;

2.9.4.2 The appointed Trustees shall be deemed to be a sub-group of the Trust for the purposes of Regulation 4.4.2;

2.9.4.3 the Chief Executive will advise the Trustees of the decision relating to the circumstances once taken by the Appointed Trustees;

2.9.4.4 the documents and any subsequent Minute relating to the circumstances shall be deemed to be confidential by the Chief Executive for the purposes of Regulation 4.4;

2.9.4.5 The Chief Executive shall make all and any such other arrangements as he/she deems fit to ensure that the matter is dealt with appropriately including but not restricted to any meeting relating to the circumstances and the taking and storage of documents and Minutes relating to the circumstances.”

Re-number 2.9.4 onwards



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**REPORT****To:** Shetland Charitable Trust

11 September 2014

**From:** Chief Executive**Report:** CT1409032**Risk Management – Annual Review****1 Introduction**

1.1 Trustees are asked to consider the new Risk Management Assessment, and agree the potential risks which have been identified, the likelihood of them occurring, the severity of impact (should they occur) and the actions which identify the steps which need to be taken to mitigate those risks.

**2 Background**

2.1 The Audit & Governance Committee have met various times since the last Risk Management Assessment was reported to Trustees in September 2013 (CT1309045). The Committee have reviewed all risks to the Trust and completed a new Strategic Risk Management Assessment facilitated by the Trust's HR Adviser.

2.2 The Audit & Governance Committee considered that some of the previous Strategic Risks should be moved to Operational Risks and managed by the Chief Executive. They also agreed that some of the previous risks should be consolidated under one umbrella heading.

2.3 The most recent Statement of Recommended Practice (SORP) for the preparation of the Trust's Annual Report and Accounts requires the Trust to make a statement confirming that:

"...the major risks to which the charity is exposed, as identified by the Trustees, have been reviewed and systems have been established to mitigate those risks."

2.4 Although many aspects of Risk Management are already imbedded in the management of the Trust's business, it is considered good practice to adopt a formal, systematic evaluation of risk on a regular basis.

**3 Risk Management Framework**

3.1 The Risk Management Assessment for the Trust, prepared by the Audit & Governance Committee, as included at Appendix 1.

- 3.2 Appendix 1 also explains the potential impact of each of the risks identified, should that event occur.
- 3.3 The next step is to consider the likelihood of that potential risk occurring. The definitions used are explained on the last page of Appendix 1 and are adopted from a formally recognised risk matrix.
- 3.4 It is also then necessary to think about how severe the impact will be on the business of the Trust, should the event occur. The severity of impact has been categorised from “insignificant” to “catastrophic” using the following classifications:
- Insignificant
  - Minor
  - Significant
  - Major
  - Catastrophic
- 3.5 The Risks are then plotted on a Residual Risk Rating Matrix and, for simplicity, the matrix classifies risks as either red, amber or green. The degree of urgency and importance increases as you move along the matrix from a “rare and insignificant” risk to an “almost certain catastrophic” risk. This is the scoring system that was used.

**Residual Risk Rating Matrix: Framework**

		<b>F R E Q U E N C Y</b>				
		Rare	Unlikely	Possible	Likely	Almost Certain
<b>S E V E R E I T Y</b>	Insignificant	1	2	3	4	
	Minor	2	4	6	8	
	Significant	3	6	9		
	Major	4	8			
	Catastrophic					

**4. Present Position**

- 4.1 Currently, the Trust’s Risk Management Assessment is reviewed quarterly at Officer level, and annually at Trustee level. The risks identified are categorised below. Each risk is numbered, and can be identified and cross referenced to the grid below.

4.2 Below is the current matrix for the Trust's Risk Assessment.

**Residual Risk Rating Matrix: Shetland Charitable Trust**

		F R E Q U E N C Y				
		Rare	Unlikely	Possible	Likely	Almost Certain
S E V E R E I T Y	Insignificant	0	0	0	0	
	Minor	0	0	0	0	
	Significant	0	Risk 3	Risk's 2,4,5		
	Major	0	Risk 1			
	Catastrophic					

4.2 The Trust has identified 5 potential risks, which may impact on the business of the Trust. In this review, all risks have been classed as Amber.

4.3 Priority will be given to tackling any issue which has a high likelihood of occurring and a significant impact on service delivery should it occur

**5. Future Reviews**

5.1 The Audit and Governance Committee will have overall responsibility for reviewing the Trust's Risk Management Assessment.

5.2 Each risk identifies the Lead Committee for that particular risk and each of these Committees will take responsibility for ensuring the risk is reviewed regularly.

**6 Financial Implications**

6.1 There are no financial implications associated with this report.

**7. Recommendations**

7.1 I recommend that Trustees

- (a) approve the Risk Management Assessment set out in Appendix 1;

- (b) note that progress on the actions will be reported to Trustees, from time to time;
- (c) agree that each Committee will take responsibility to review the risks which have been assigned to them as lead committee; and
- (d) agree that the major risks to which the charity is exposed, as identified by the Trustees, have been reviewed and systems have been established to mitigate those risks.

Shetland Charitable Trust  
AB/EM/TA20  
2 September 2014

Report No CT1409032



# Charitable Trust Assurance Framework – Risk – Risk 1

CT1409032 – Appendix 1

<p><b>Objective(s):</b> To ensure that the Charitable Trust operates with good Governance</p> <p><i>"To appoint the CE and auditors and to satisfy themselves that an appropriate governance structure is in place. The responsibilities include setting the Trust's strategic aims, providing the leadership to put them into effect, ensuring that there is appropriate management of the Trust"</i></p>		<p><b>Risk Owner:</b> Trustees</p> <p><b>Lead Committee:</b> Audit and Governance</p>	
<p><b>Risk:</b> Poor Governance - the current processes in place don't ensure consistent decision making by Trustees</p> <p><b>Risk Rating:</b> (Likelihood x consequence): Unlikely x Major= Score of 8</p> <p>Initial: AMBER Current: AMBER Target: GREEN</p>		<p><b>Date last reviewed:</b> September 2014</p> <p><b>Date review due:</b> September 2015</p>	
<p><b>Controls (what are we currently doing about mitigating the risk?)</b></p> <p>Trust Deed and Administrative Regulations</p> <p>New structure in place</p> <p>Appointment process for Trustees (Induction)</p> <p>Trustees being Accountable (owning decisions)</p> <p>Checks and Balances in place (see assurance section below)</p> <p>Code of Practice (Conduct)</p> <p>Training and Education delivered and available for Trustees</p>		<p><b>Rationale for current score:</b> Failure in this area would have an impact on public perception of the trustees ability to do their role as Trustees</p> <p><b>Rationale for target score:</b> While the impact of failures could have a major impact on public perception the aim is to reduce the likelihood of this occurring.</p> <p><b>Weaknesses or gaps in controls (where are we failing to put controls/systems in place or failing to make them effective?)</b></p> <p>Need to formalise the recruitment procedure for Trustees</p> <p>Annual Report to full Trust (assurance/exception reporting)</p>	
<p><b>Actions required to improve control (what more have we identified we should do?)</b></p> <p>See above weaknesses/gaps – procedure to be finalised</p> <p><b>Internal Assurances (How do we know controls are in place and functioning as expected/are of sufficient quality?)</b></p> <p>Performance Appraisals</p> <p>Audits</p> <p><b>What previous risks does this address:</b></p> <p>Risk ID2: The Charity lacks direction, strategic and forward planning – drifts with no objectives, priorities and plans</p> <p>Risk ID6: Risks of Conflicts of interest where own agendas used</p> <p>Risk ID12: Activities potentially outside objects, powers or terms of gift. (restricted fund)</p>		<p><b>External Assurances (Are we receiving independent assurances?)</b></p> <p>OSCR</p> <p>Turcan Connell – scrutinise audit papers/minutes and actions to ensure decisions being made are followed through</p> <p>Clean bill of Health from Auditors</p> <p>Companies House – Annual Accounts</p> <p><b>Weaknesses or gaps in assurance (where are we failing to gain evidence that the controls we place reliance on are effective/where do we have gaps?)</b></p> <p>How do Trustees understand complaints and issues inc appeals and litigation</p>	
<p><b>Current performance (with these actions taken, how serious is the problem?)</b></p> <p>Assessment of performance GOOD</p>		<p><b>Next steps (- is there more we can do to focus efforts on this issue)</b></p> <ul style="list-style-type: none"> <li>To look at what could go into an annual assurance/exception report – CE</li> <li>To annually report on performance to Audit &amp; Governance Committee inc complaints/sickness absence – CE</li> </ul>	



## Charitable Trust Assurance Framework - Risk 2

<p><b>Objective(s):</b> To ensure that the Trust makes good Investment Decisions                  Takes into account – ensure that we live within means and spend income wisely, make the right investment decisions, and deal with disbursements</p>		<p><b>Risk Owner:</b> Trustees  <b>Lead Committee:</b> Investment</p>	
<p><b>Risk:</b>                  Poor Investment Decisions</p>		<p><b>Date last reviewed:</b> September 2014  <b>Date review due:</b> September 2015</p>	
<p><b>Risk Rating:</b>                  (Likelihood x consequence):                  Possible x Significant = 9</p>		<p><b>Rationale for current score:</b>                  Failure in this area would have an impact on public perception of the Trustees ability to do their role as Trustees</p>	
<p>Initial: RED      Current: AMBER      Target: AMBER</p>		<p><b>Rationale for target score:</b>                  While the impact of failures could have a major impact on public perception the aim is to reduce the likelihood of this occurring.</p>	
<p><b>Controls (what are we currently doing about mitigating the risk?)</b>                  Fund managers appointed through appropriate tender routes                  Investment committee in place                  Market forces have a play in risk decisions                  Trust Investment Strategy defines what should be the split in Equity/Bonds                  Trustees receive regular update reports                  Budget Strategy – don't spend more than earn in place</p>		<p><b>Weaknesses or gaps in controls (where are we failing to put controls/systems in place or failing to make them effective?)</b></p> <ul style="list-style-type: none"> <li>• Trustees need to understand the work of the Investment Committee – perhaps helpful for each sub Committee to share Terms of Reference etc</li> <li>• Update Investment Strategy</li> <li>• Look at work programmes for each committee and how to cascade information</li> </ul>	
<p><b>Actions required to improve control (what more have we identified we should do?)</b>                  Review Disbursement Policy</p>		<p><b>Timescale</b>      <b>Lead</b></p> <p>Dec 14      CE</p> <p>Dec 14      CE</p>	
<p>Update Investment Strategy</p>			
<p><b>Internal Assurances (How do we know controls are in place and functioning as expected/are of sufficient quality?)</b>                  Investment committee                  Terms of Reference                  Objectives/workplans of each Committee</p>		<p><b>External Assurances (Are we receiving independent assurances?)</b>                  Fund Managers and Process of Appointment</p>	
<p><b>What previous risks does this address:</b>                  Risk ID17: New project or service delivery and development – ensuring assessment of needed and performance monitoring                  Risk ID26: Budgetary control and financial reporting – ensuring the spending programme is affordable and sustainable, that the budget matches key objectives and priorities and decisions are made on reliable date                  Risk ID27: Protection of Reserves/Endowment and Dependency on Income sources                  Risk ID32: Failure to plan for demographic changes which could lead to increasing beneficiary class eg older people etc                  Risk ID33: Failure to secure value for money from current arrangements</p>		<p><b>Weaknesses or gaps in assurance (where are we failing to gain evidence that the controls we place reliance on are effective/where do we have gaps?)</b></p> <ul style="list-style-type: none"> <li>• Requires Investment and Disbursement Strategy</li> <li>• Investment Strategy – exists but is historical</li> <li>• Look at how decisions are made (ethical/legal)</li> </ul>	
<p><b>Current performance (with these actions taken, how serious is the problem?)</b></p>		<p><b>Next steps (- is there more we can do to focus efforts on this issue)</b>                  Review Investment Strategy                  Review Disbursement Strategy</p>	

### Charitable Trust Assurance Framework - sk 3

Objective(s): To ensure that the Trust maintains Charitable Status and complies with relevant legislation		Risk Owner: Trustees	
Risk: Loss of Charitable Status -		Lead Committee: Audit & Governance	
Risk Rating:		Date last reviewed: September 2014	
		Date review due: September 2015	
<p><b>Rationale for current score:</b> Failure in this area would have an impact on the functioning and reputation of the Trust and is therefore extremely serious.</p> <p><b>Rationale for target score:</b> While the impact of failures could have a major impact on the Trust, the aim is to reduce the likelihood of this occurring.</p> <p><b>Weaknesses or gaps in controls (where are we failing to put controls/systems in place or failing to make them effective?)</b></p> <ul style="list-style-type: none"> <li>• Risk at not complying with legislation unintentionally</li> <li>• Legislation may change and inability to respond within appropriate timescales</li> </ul>	<p><b>Rationale for current score:</b> Failure in this area would have an impact on the functioning and reputation of the Trust and is therefore extremely serious.</p> <p><b>Rationale for target score:</b> While the impact of failures could have a major impact on the Trust, the aim is to reduce the likelihood of this occurring.</p> <p><b>Weaknesses or gaps in controls (where are we failing to put controls/systems in place or failing to make them effective?)</b></p> <ul style="list-style-type: none"> <li>• Risk at not complying with legislation unintentionally</li> <li>• Legislation may change and inability to respond within appropriate timescales</li> </ul>		
<p><b>Controls (what are we currently doing about mitigating the risk?)</b></p> <ul style="list-style-type: none"> <li>• OSCR</li> <li>• Trust Deed</li> <li>• Admin Regs</li> <li>• Finance Regs</li> </ul>	<p><b>Actions required to improve control (what more have we identified we should do?)</b></p> <p>Continue professional relationship with OSCR</p> <p>Continue professional relationship with Turcan Connell</p> <p>Continue to timeously respond to changes in legislation</p>	<p><b>Internal Assurances (How do we know controls are in place and functioning as expected/are of sufficient quality?)</b></p> <ul style="list-style-type: none"> <li>• Good communication links with OSCR</li> <li>• Good communication links with Turcan Connell</li> <li>• Good communication links with KPMG</li> <li>• Good Communication links with Scottish Government</li> <li>• Good Communication links with Trustees</li> </ul> <p><b>External Assurances (Are we receiving independent assurances?)</b></p> <ul style="list-style-type: none"> <li>• Turcan Connell updates</li> <li>• OSCR updates</li> <li>• Annual Report</li> <li>• Newsletters</li> <li>• Email updates</li> </ul>	<p><b>Weaknesses or gaps in assurance (where are we failing to gain evidence that the controls we place reliance on are effective/where do we have gaps?)</b></p> <ul style="list-style-type: none"> <li>• Staff training and awareness</li> <li>• Knowledge and awareness of Trustees</li> <li>• Knowledge and awareness of Audit &amp; Governance Committee</li> </ul> <p><b>Next steps (- is there more we can do to focus efforts on this issue)</b> Continue to ensure these risks remain priority in all Trust discussions and decisions.</p>
<p><b>What previous risks does this address:</b></p> <p>Risk ID1: Charitable Status removed Risk ID8: Failure to comply with Charity Law</p>	<p><b>Current performance (with these actions taken, how serious is the problem?)</b> Assessment of performance GOOD</p>		



## Charitable Trust Assurance Framework – Risk 4

<b>Objective(s):</b> To be well regarded in the Local Community		<b>Risk Owner:</b> Trustees	
		<b>Lead Committee:</b> General Purposes	
		<b>Date last reviewed:</b> September 2014	
		<b>Date review due:</b> September 2015	
<b>Risk:</b> <b>Poor Reputation</b>			
<b>Risk Rating:</b> (Likelihood x consequence): Possible and Significant = 9  Initial: RED      Current: AMBER      Target: GREEN		<b>Rationale for current score:</b> Failure in this area would have an impact on the sustainability of the Trust and is therefore AMBER. There is an uncertainty around how the community views the Trust at this time. Although the level of formal complaints from the community is minimal.  <b>Rationale for target score:</b> While failure could have a serious impact on the reputation of the Trust, Trustees intend to measure the external perception of the Trust and work towards improving this.	
<b>Controls (what are we currently doing about mitigating the risk?)</b>  Code of Conduct General Purposes Committee Collective and Individual Behaviour both within and outwith the Trust Chairman's role Having a Communications Strategy		<b>Weaknesses or gaps in controls (where are we failing to put controls/systems in place or failing to make them effective?)</b>  Sharing good news stories Potential Breach of Code of Conduct Media training Skills matrix	
<b>Actions required to improve control (what more have we identified we should do?)</b>  Look at multi agency media training  Ongoing media advice and training for Chair and Chair of Committees  Continued legal advice in relation to Code of Conduct for Trustees		<b>Timescale</b> <b>Lead</b> March 2014      CE ongoing      CE Ongoing      CE	
<b>What previous risks does this address:</b>		<b>External Assurances (Are we receiving independent assurances?)</b> Partner Agency engagement OSCR Media Coverage Funded Bodies 360 Feedback	
<b>Risk ID4: Board of Trustees dominated by one or two individuals or by connected individuals</b>  <b>Risk ID5: Conflicts of Interest</b>			
<b>Current performance (with these actions taken, how serious is the problem?)</b> Assessment of performance is linked to number of complaints. Positive engagement with funded bodies & community (Community Councils and community groups)		<b>Next steps (- is there more we can do to focus efforts on this issue)</b> Consider core elements of communication strategy and how we communicate outcomes/decisions to media & population Update Admin Regs in relation to Code of Conduct and conflicts 360 Feedback Examine Trustee role as Trust Champions	

## Charitable Trust Assurance Framework – Risk 5

<b>Objective(s):</b> To ensure good governance of SCT's subsidiary companies		<b>Risk Owner: Trustees</b> <b>Lead Committee: Audit and Governance Committee</b>
<b>Risk: Poor operation of subsidiary companies resulting in loss of earnings to Trust</b>		
<b>Risk Rating:</b> (Likelihood x consequence): Possible x significant = 9		
Initial: RED	Current: AMBER	Target: GREEN
<b>Rationale for current score:</b> Relatively new processes which require to be bedded in. Furthermore, the recent turnover in Non-Executive Directors.		
<b>Rationale for target score:</b> Stable, functioning, appropriately skilled and experienced Non-Executive Directors on the Boards of subsidiary companies.		
<b>Weaknesses or gaps in controls (where are we failing to put controls/systems in place or failing to make them effective?)</b>		
<ul style="list-style-type: none"> <li>• Change management process still ongoing for SHEAP</li> <li>• Changes in directorships</li> </ul>		
<b>Actions required to improve control (what more have we identified we should do?)</b>		<b>Timescale</b> <b>Lead</b>
Ensure appropriate skilled and experienced Directors are recruited		March 2015      CE
Ensure Directors are monitored through performance of companies		March 2015      CE
<b>Internal Assurances (How do we know controls are in place and functioning as expected/are of sufficient quality?)</b>		
<ul style="list-style-type: none"> <li>• Regular reports on Operational Activities</li> <li>• Regular reports on Financial Performance</li> </ul>		
<b>What previous risks does this address:</b>		
Risk ID6: Risks of Conflicts of interest where own agendas used		
<b>External Assurances (Are we receiving independent assurances?)</b>		
<ul style="list-style-type: none"> <li>• Unqualified accounts</li> <li>• Clean audit sheet</li> <li>• Complying with all legislation (i.e. H&amp;S)</li> </ul>		
<b>Next steps (- is there more we can do to focus efforts on this issue)</b>		
<ul style="list-style-type: none"> <li>• Complete Review of Governance of SHEAP</li> <li>• Ensure new Non-Executive Directors are appointed, inducted and supported to be effective on Boards they are appointed to</li> <li>• Ensure sufficient level of ongoing knowledge by all Trustees in the performance of subsidiary companies</li> </ul>		



**SHETLAND CHARITABLE TRUST – SCORING FRAMEWORK**

Descriptor	Description of Frequency
Almost certain	I would not be at all surprised if this happened within the next few months
Likely	I think this could occur sometime in the coming year or so
Possible	I think this could maybe occur at some point, but not necessarily in the immediate future
Unlikely	I would be mildly surprised if this occurred, but cannot entirely rule out the possibility
Rare	I would be very surprised to see this happen, but cannot entirely rule out the possibility

Descriptor	DESCRIPTION OF SEVERITY				
	Breach of legal requirements	Financial loss	Disruption in service days	Community	Embarrassment
HAZARD → IMPACT ↓					
Insignificant	Litigation claim ≤£2K	≤£10K	None	Inconvenience to an individual or small group	None
Minor	£2k to £50k	£10k to £100k	1	Impact on an individual or small group	Contained within Trust
Significant	Claim £50k to £250k	£100k to £500k	2-3	Impact on a local community	Local public or press interest
Major	Claim £250k to £1m	£500k to £1m	4-14	Impact on several communities	National public or press interest
Catastrophic	Multiple civil or criminal actions claim of above £1m	≥£1m	≥14	Impact on the whole of Shetland	Officers and/or Trustees forced to resign

Frequency → Severity ↓	Rare	Unlikely	Possible	Likely	Almost Certain
Insignificant	1	2	3	4	
Minor	2	4	6	8	
Significant	3	6	9		
Major	4	8			
Catastrophic					





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**REPORT****To:** Shetland Charitable Trust

Date 11 September 2014

**From:** Chief Executive

Report: CT1409033

**Substance Misuse Policy****1. Introduction**

1.1 This report asks Trustees to approve and adopt an updated Substance Misuse Policy, procedures and guidelines.

**2. Background**

2.1 The Trust is required to review its policies regularly, to ensure that they meet current legislative requirements and are fit for purpose.

**3. Present Position**

3.1 Attached as Appendix 1 is the Trust's policy on Substance Misuse, which has been reviewed at officer level and updated to meet current requirements.

**4. Financial Implications**

4.1 There are no financial implications arising from this report.

**5. Recommendations**

5.1 Trustees are requested to approve and adopt the Substance Misuse Policy, Procedures and Guidelines attached as Appendix 1.

Reference: EM/SH/TA36  
Date: 26 August 2014

Report Number CT1409033



**SUBSTANCE MISUSE POLICY**

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**LIST OF APPENDICES**

- A. SUBSTANCE MISUSE FACTS AND FIGURES
- B. CONTACTS
- C. EXAMPLE LETTER AND SUBSTANCE MISUSE RECOVERY COMMITMENT
- D. EXAMPLE LETTER AND SUBSTANCE MISUSE RECOVERY CONTRACT

## INTRODUCTION

- 1.1 Shetland Charitable Trust (The Trust) is committed to ensuring the health, safety and welfare of its employees and those affected by its activities. The Trust will take all reasonable steps to reduce the risk of injuries or incidents occurring due to individuals misusing substances. The Trust recognises the impact substance misuse can have on employees and those using its services and has developed this policy to protect those who work for or are served by the Trust. It is important that the services delivered by the Trust are carried out in a safe and efficient manner, and not affected by inappropriate conduct of employees due to substance misuse.
- 1.2 The Trust recognises the importance of its employees' health and wellbeing and of a supportive working environment. It also acknowledges substance misuse as a health problem affecting an employee's performance, behaviour and attendance as well as impacting on relationships at work and home. Early identification and action on such problems is crucial and the Trust encourages staff who have a dependency on alcohol or drugs to seek help through the provisions of this policy.
- 1.3 Managers must contact Human Resources for appropriate information and advice and/or contact Community Alcohol and Drugs Shetland Service (CADSS) (see Appendix B) for general advice if they come across an employee with a suspected substance misuse problem.
- 1.4 The Shetland Charitable Trust will, where appropriate, implement the Disciplinary Procedure to deal with incapability and/or poor performance at work related to substance misuse.

## 2 SCOPE OF POLICY

- 2.1 This policy applies to all employees of Shetland Charitable Trust. However, the standards contained within this policy will also apply to contractors, customers, Trustees and the public when visiting Trust premises.

## 3 DEFINITION OF SUBSTANCE MISUSE

- 3.1 For the purpose of this policy, the following definitions apply:
  - 3.1.1 **Alcohol misuse:** Any drinking of alcohol, either intermittent or continual, which interferes with a person's health, welfare and social functioning and/or work capacity or conduct.
  - 3.1.2 **Drug:** A drug is a substance which alters the way in which the body or mind works. The term drug applies to alcohol, drugs controlled under the Misuse of Drugs Act 1971 (see Appendix A), prescribed drugs, over-the-counter medication and solvents.

3.1.3 **Drug misuse:** Use of illegal drugs and the misuse, whether deliberate or unintentional of prescribed drugs, over-the-counter medication and solvents.

3.1.4 **Substance Misuse:** Drug and/or alcohol misuse as defined above.

3.1.5 **For cause:** Where an employee is suspected to be under influence of a substance.

3.1.6 **Following an accident/incident:** Where there has been an accident or incident, or near accident or incident.

## 4 POLICY STATEMENTS

4.1 In line with the Code of Conduct for Employees, the performance and image of the Trust should not be undermined as a result of an employee's behaviour or related lifestyle induced by alcohol and/or drugs, in regard to this:

- Employees must not consume alcohol and/or misuse drugs or other substances prior to arrival at work, or during working hours (including breaks) whether within or outside the work place (for example when driving as part of work).
- Staff who are on standby duties must ensure that they are not unfit due to substance misuse in case they are required to go to work.
- Employees must not take substances into their workplace with an intention to misuse these.
- Shetland Charitable Trust prohibits employees distributing, manufacturing, possessing, selling or buying a controlled drug (see Appendix A for further details). Breach of this will instigate an investigation, in line with Section 4 of the Trust's Disciplinary Procedure.

4.2 Employees that are taking prescription drugs or over the counter medication must ensure that their performance at work is not adversely affected, especially if the duties and responsibilities of their post involves the caring for or ensuring the safety of others. Generally the onus is on employees to declare their use of drugs with such potential side effects; this includes legal product use for example, codeine in cold/flu cures.

4.3 On occasion alcohol may be consumed on Trust premises out with working time for special events or functions (e.g. retirements, Christmas, etc). However, in advance of the event taking place permission should be sought from the Chief Executive. Such approval will only be given when the staff drinking alcohol are not expected to return to their work duties.

- 4.4 All employees are reminded that the Trust's Disciplinary Procedure regards "incapacity to carry out the duties of the post due to the intake of alcohol or the use of illegal drugs" as gross misconduct, which could result in summary dismissal.
- 4.5 While employees should be in no doubt that the Trust will take action where it is required over an employee's substance misuse, it is important to emphasise its ongoing commitment to creating an environment where employees are able to acknowledge and address any dependency and seek advice and treatment.

## **5 AIMS OF POLICY**

- 5.1 To promote the health, safety and well-being of employees and lessen the associated problems arising at work from substance misuse.
- 5.2 To ensure all employees are made aware of the risks and early signs associated with substance misuse through an ongoing health awareness/promotion process.
- 5.3 To offer appropriate support to those employees known to have substance misuse problems and to seek advice from CADSS and Occupational Health on the most appropriate course of treatment to resolve the problem.
- 5.4 To provide clear guidelines on the role and responsibilities of managers whilst dealing with substance misuse among employees.

## **6 LEGISLATION**

- 6.1 The Road Traffic Act 1988 states that any person who, when driving or attempting to drive a motor vehicle on a road or other public place, is unfit to drive through drink or drugs shall be guilty of an offence. An offence is also committed if a person unfit through drink or drugs is in charge of a motor vehicle in the same circumstances.
- 6.2 The principal legislation in the UK for controlling the misuse of drugs is the Misuse of Drugs Act 1971. Nearly all drugs with misuse and/or dependence liability are covered by it. The Act makes the production, supply, offer to supply and possession of these controlled drugs unlawful except in certain specified circumstances (for example, when they have been prescribed by a doctor). It is also an offence for the occupier of premises to permit knowingly the production or supply of any controlled drugs or allow the smoking of cannabis or opium on those premises.
- 6.3 The Trust cannot condone illegal activity and the Chief Executive is expected to report any incident to the Police where it is believed that the law is being broken.

- 6.4 Management of Health and Safety at Work Regulations 1999, made under the Health and Safety at Work Act 1974, requires that employers assess all the risks to their staff and others caused by their work activities. There are therefore obligations on both the employer and any affected employee where use of substances whilst at work could affect the health and safety or welfare of themselves or others.

## **7 CONFIDENTIALITY**

- 7.1 Respect will be paid to protecting personal sensitive information. Particular care will be taken by anyone involved in the case to ensure that the confidential nature of personal records of staff is strictly preserved. In any event, personal and sensitive information will be processed in accordance with Data Protection legislation by the Trust, its employees and any contractors.

## **8 RAISING AWARENESS OF SUBSTANCE MISUSE**

- 8.1 The Trust has a Common Law Duty of Care to take reasonable care of an employee's health. Furthermore, the Trust recognises the benefits that will result from increased awareness of the dangers from substance misuse. It therefore has a commitment to raise awareness of substance misuse and how to implement the policy through training, which is an integral part of its wider health awareness campaign.
- 8.2 Information will be provided to staff in recognising the signs, handling this sensitive issue competently, in confidence and with sympathy and tact. Drug and Alcohol Awareness training is available to all Trust employees and focuses on 3 areas; general awareness, management training and for those working with, or concerned about, young people.

## **9 IDENTIFICATION OF POSSIBLE SUBSTANCE MISUSE**

- 9.1 The earlier substance misuse is identified, the more likely it will be that the employee will overcome such problems. Listed below are signs that may indicate a substance problem.
- Increased absenteeism – frequent Monday and/or Friday absences, or following days off (for shift workers), increased sick leave, arriving late or leaving early from work;
  - Increased accidents – at work and/or elsewhere, repeated violation of safety practices;

- Low performance standards – abnormal fluctuations in concentration and energy, poor judgement, sporadic work patterns, increased errors, periods of high and low productivity, lower quantity/quality of work;
- Personality changes – sudden mood changes, unusual irritability or aggression, tendency to become confused, deteriorations in relationships with colleagues;
- Change of appearance – lack of personal hygiene, hand tremors, slurred speech, dilated pupils and/or smell of alcohol.

It should be noted that these are possible signs of misuse and may be caused by other factors such as stress or other medical conditions. In accordance with this policy, assistance should be offered to those employees who show any of these signs. It is advisable to discuss these signs at an early stage with Human Resources, an occupational health appointment will be arranged and with the agreement of the employee, a meeting with CADSS will also be set up.

## **10 EMPLOYEES UNDER THE INFLUENCE OF SUBSTANCE AT WORK**

### **10.1 General Concerns / Pattern of Behaviour**

Contact must be made with Human Resources for advice if concerns in regard to an employee's behaviour, work performance, attendance or if they come across a situation where they think substance misuse may exist. Having taken advice from HR, an initial meeting must be arranged between the Chief Executive and the employee to discuss these concerns. All Managers have access to training or information which equips them with the knowledge of how to recognise a substance misuse problem and to be able to address and assist with it, including the initial meeting with the employee which requires sensitive handling. General advice also is available via expert agencies, such as CADSS (see Appendix B for contact details), and managers are encouraged to contact them. The initial meeting with the employee should include the following:

- Circumstances observed;
- Offer of help;
- Disciplinary consequence of continuing present pattern.

If the employee admits they have a problem with substance misuse then a meeting must be arranged between the employee and CADSS as soon as possible, this must be discussed with the employee prior to making any arrangements. Furthermore, the employee should be referred to Occupational Health; this must also be discussed with the employee before the referral is made



If the employee does not acknowledge the existence of a Substance Misuse problem the manager must still pass an Occupational Health Referral to HR, specifically raising concerns of substance misuse and asking for a professional opinion on whether this is the case and/or whether the employee's pattern of behaviour is due to misuse of substances, or a medical reason. Should Occupational Health then advise of a substance misuse problem, another meeting should be held with the employee and arrangements made for them to meet with CADSS. If the employee continues to deny the existence of a problem, the matter will be referred to the Head of Service who will consider further action. This may include disciplinary action with regard to any impaired work performance or behaviour.

## **10.2 Self Referral**

An employee with a dependency, or concern regarding their own substance misuse, can seek help and support from the Trust in overcoming their problem. The employee should discuss the problem with a senior member of staff (line manager/supervisor) or Trade Union Representative who will assist with the matter. Advice must be sought from Human Resources who will recommend the involvement of Occupational Health and CADSS as soon as possible (a meeting should be arranged by HR or the manager).

## **10.3 Referral of a Colleague**

If an employee has concerns about any colleague's performance at work and believes these are caused by substance misuse, they should contact their manager who will raise the work performance issues with the employee concerned. All employees are urged not to collude with colleagues where substance misuse is causing problems at work. Such misplaced loyalty compounds and aggravates the problem and could lead to disciplinary action being taken against those colluding to subvert this policy (see Appendix B for contacts and support groups).

## **10.4 Action Following Referral**

### **10.4.1 Substance Misuse Recovery Commitment**

Where a substance misuse dependency or concern is raised and acknowledged, then a Substance Misuse Recovery Commitment must be signed and returned by the employee (please see Appendix C for example letter and Recovery Commitment). Should the employee fail to make the progress with their recovery at the Recovery Commitment stage it is possible (depending on the circumstances) that, following advice from HR and a subsequent meeting with the employee, a Substance Misuse Recovery Contract may then be agreed and signed (as recommended by CADSS), see below for further details.

## 10.4.2 Substance Misuse Recovery Contract

An employee who fails to make progress whilst they are subject to a Recovery Commitment (as discussed at 10.4.1) will be required to agree to, sign and return the Substance Misuse Recovery Contract as part of the agreed recovery programme (see Appendix D).

The Substance Misuse Recovery programme, which will be based on the CADSS Care Plan, must be clear, with agreed targets, and be monitored. During this time the employee must meet agreed targets and make progress on the programme. The targets must be achievable and measurable and set out how these are to be monitored.

An assessment must be done, through CADSS and OH, to determine whether the employee can remain at work while the programme is being followed and whether an employee can remain in their own job for the duration of the programme. This will be primarily where there are safety considerations, for example, for Safety Critical posts and when caring for others. Depending upon the circumstances, the Trust may consider redeploying the employee to an alternative post, where available, whilst in recovery; any redeployment must be recommended and approved by OH. Where an employee is unfit to carry out his/her job while on a recovery programme he/she will be on sick leave (this would need to be certified by their GP after the period of self certification).

Where the Trust is supporting an employee through treatment or counselling it must be recommended and supervised by CADSS and supported by the Trust's Occupational Health Service provider or the employee's own GP (where both the GP and the employee are happy to work in this way). Where an employee requires time off to attend this treatment or counselling sessions during working time, paid time off will be granted. The employee will, in this instance, be required to sign either a Recovery Commitment (Appendix C), if referred due to general concerns, a pattern of behaviour or is a self or colleague referral, or a Recovery Agreement (Appendix D), if referred following an incident/near incident or 'for cause', see below for further details. Where an employee is referred for a residential programme then the time off required will require to be supported by medical certification, or authorisation should be sought for paid or unpaid leave. An employee who does not make the expected progress on a programme or who fails to accept help, fails to continue with treatment, or who fails a substance misuse test is likely to be subject to disciplinary action, which may result in dismissal. It is recognised that there may be a recurrence of a dependency problem after the return to work. The Trust will consider each case on its merits before agreeing to a second recovery programme. Where a second programme is agreed this may take place as part of a disciplinary process.

### **10.4.3 CADSS**

Once the employee has established contact with CADSS, they must give 'permission to liaise' so that the organisation can share information regarding them, with the Trust and Occupational Health. If the employee agrees to undertake a Substance Misuse Recovery Programme, a Care Plan will be put in place by CADSS. The care plan will form part of the Trust's Recovery Contract with the employee (see 10.2.2 for further details). Once an official recovery programme is set in motion CADSS will undertake regular drugs and alcohol testing to ensure the employee has not relapsed. As the employee will have given their 'permission to liaise', this information will be shared with the Trust, along with confirmation that the employee has attended scheduled counselling sessions etc.

### **10.4.4 Occupational Health**

Occupational Health will be involved from an early stage and will assist the Trust by reviewing the employee on a regular basis (recommended minimum Occupational Health appointment would be 6 weekly initially, reducing to 3 monthly as the employee recovers and stopping approximately 12 months following recovery). These dates are for guidance only and may vary depending on individual circumstances. Following each review, Occupational Health will send a report to HR, copied to the employee and their line manager.

## **11 COMPLAINTS**

Employees who have questions or problems with the interpretation, provisions or application of this policy, should first raise this with the Chief Executive. This can include representation by the employee's trade union. If this procedure fails to produce a satisfactory result to the employee concerned, recourse may then be made to the Trust's Grievance Procedure. Administration staff or Human Resources can provide information about the Grievance Procedure.

## **12 POLICY REVIEW**

This policy will be reviewed one year after implementation and then after a further two years.

**DRUGS AND THE LAW**

The Misuse of Drugs Act 1971 governs the class and penalties for drugs offences in Scotland. Drugs are graded into three classes – A, B and C. The drugs which cause the most harm are class A, however all drugs have the potential to cause harm, even drugs in the lower classes (Scottish Crime and Drug Enforcement Agency, 2010). Penalties for possession and dealing in the three classes of drugs are as follows:

CLASS	DRUG	POSSESSION	PRODUCTION OR DEALING
A	Ecstasy, Heroin, Morphine, street Methadone, LSD, Cocaine, Crack, Magic Mushrooms, Methamphetamine (Crystal Meth), PMA, 2CB, Amphetamines (if prepared for injection).	Up to 7 years in prison, or a fine, or both.	Up to life in prison, or a fine, or both.
B	Amphetamines ('Speed'), Cannabis, Pholcodine (Cough Suppressant), Methylphenidate (Ritalin), Mephedrone (MCAT), Naphyrone (NRG1)	Up to 5 years in prison, or a fine, or both.	Up to 14 years in prison, or a fine, or both.
C	Tranquilisers, some painkillers, Rohypnol, GHB, GBL BZP, Ketamine.		Up to 14 years in prison, or a fine, or both.

**ALCOHOL UNIT GUIDE**

As per Department of Health advice, sensible drinking limits are defined as no more than 21 units a week for adult males and 14 units a week for adult females. To reduce health risks from drinking, this should be spread over the week, i.e. 3-4 units per day for men and 2-3 units a day for woman. A unit of alcohol is 10ml of pure alcohol. Counting units of alcohol can help keep track of the amount being drunk. The list below shows the number of units of alcohol in common drinks:-

Beverage Type	Alcohol by volume (%)	Alcohol content (units)
<b>Wine</b>		
125 ml glass	12%	1.5
175ml glass	12%	2
250ml glass	12%	3
1 bottle (75cl)	12%	9
125 ml	15%	2
175ml	15%	2.5
250ml	15%	4
1 bottle (75cl)	15%	11.25
<b>Beer/lager/cider</b>		
330 ml can or bottle	3%	1
440 ml can or bottle	3%	1.5
1 pint (568ml)	3%	2
330ml can or bottle	4-5%	1.5
440ml can or bottle	4-5%	2
1 pint	4-5%	3
330 ml can or bottle	6%	2
440ml can or bottle	6%	2.5
1 pint	6%	3.5
330 ml can or bottle	8% or 9%	3
440 ml can or bottle	8% or 9%	4
1 pint	8% or 9%	5
<b>Alcopops/spirit based with mixer</b>		
275 ml bottle	5.5%	1.5
330 ml bottle	5.5%	2
<b>Spirits (whisky/gin/vodka/rum/brandy/shooters)</b>		
25ml (small) measure	40%	1
35ml (large) measure	40%	1.4
50ml (small double)	40%	1.9 – 2.0
70ml (large double)	40%	2.7 – 2.8
1 bottle (70 ml)	40%	28
1 bottle (1 litre)	40%	40

## **CONTACTS**

### **Chief Executive**

Ann Black  
01595 744990  
[ann.black@shetlandcharitabletrust.co.uk](mailto:ann.black@shetlandcharitabletrust.co.uk)

### **Human Resources**

Lorraine Hall  
NHS Shetland  
Montfield  
01595 743024  
[lorraine.hall@nhs.net](mailto:lorraine.hall@nhs.net)

### **Occupational Health Service**

Bernadette Dunne (Senior Occupational Health Advisor)  
NHS Shetland  
Brevik House  
Lerwick

## **SUPPORT AND COUNSELLING SERVICES**

### **Community Alcohol & Drugs Service Shetland (CADSS)**

44 Commercial Street (above Feardie-Meat)  
Lerwick  
Tel: 01595 695363  
Email: [admin@cadss.org.uk](mailto:admin@cadss.org.uk)  
Website: [www.cadss.org.uk](http://www.cadss.org.uk)  
Open Monday – Friday 10.00am to 5.00pm

### **Alcoholics Anonymous**

Annsbrae House (entrance off Knab Road)  
Lerwick  
National Helpline: 0345 697555  
Meet every Friday at 7.00pm in Congregational Church Hall, Clairmont Place, Lerwick.

### **Samaritans**

13 Charlotte Street  
Lerwick  
Tel: 01595 694449  
National Helpline: 08457 909090  
[www.samaritans.org.uk](http://www.samaritans.org.uk)  
Open from: 7.30pm to 10.30pm, Sunday – Wednesday  
9.00pm to 10.30pm, Thursday – Saturday

**CRIME PREVENTION**

**Police Scotland**

Market Street  
LERWICK  
ZE1 0JN  
Tel: 101

**Safer Shetland Action Line**

Tel: 01595 694544

**Crimestoppers**

Tel: 0800 555 111

**LOCAL HELPLINE**

**Community Alcohol & Drugs Service Shetland (CADSS)**

Tel: 01595 695363

Email: [admin@cadss.org.uk](mailto:admin@cadss.org.uk)

**NATIONAL HELPLINES**

**Alcoholics Anonymous**

Tel: 0345 697555

[www.alcoholics-anonymous.org.uk](http://www.alcoholics-anonymous.org.uk)

**National Drug Helpline**

Tel: 0800 776 600

Website: [www.talktofrank.com](http://www.talktofrank.com)

**Narcotics Anonymous**

Aberdeen Helpline: 07071 223441

National Helpline: 020 7730 0009

Website: <http://www.ukna.org>

**Drinkline**

Freephone: 0800 314 314

**Alcohol Focus Scotland**

Tel: 0141 572 6700

[www.alcohol-focus-scotland.org.uk](http://www.alcohol-focus-scotland.org.uk)

**Know the Score**

Tel: 0800 587879

[www.knowthescore.info](http://www.knowthescore.info)

Chief Executive: Ann Black

**Private & Confidential**

Name

Address

Telephone: 01595 744994

mail@shetlandcharitabletrust.co.uk  
If calling please ask for

Direct Dial: 01595 744994

Our Ref:

Date:

Your Ref: -

Dear

**Substance Misuse Policy**

*Following our meeting on **(insert date at insert time)** in which I raised some general concerns regarding your pattern of behaviour, I acknowledge that you have admitted a problem with substance misuse. **(OR – delete as appropriate)** Thank you for approaching me to raise concerns about your own substance misuse. I acknowledge that you have these concerns and appreciate your honesty. As you are aware, from the discussion held, an important objective of the Shetland Charitable Trust Substance Misuse Policy (as attached) is to assist in overcoming substance dependence **(if appropriate)**.*

As discussed an appointment has been arranged for you with the Community Alcohol and Drugs Shetland Service on **(insert date at insert time at insert venue)**. Furthermore I have referred you to our Occupational Health Service for further advice and support. You should receive a letter to confirm this appointment date shortly.

I would like to reassure you that your condition will be treated, in the same way as someone unfit for work through illness provided you comply with the attached Recovery Commitment.

**Two copies of the Recovery Commitment are enclosed, please sign one copy to signify your acceptance of the contract terms and return to me by *(insert date - 7 days from date of letter)*. You should keep the second copy as it is for your records.**

Yours sincerely

**Chief Executive**

Cc: Human Resources Advisor / Officer

Occupational Health

Enc: Recovery Commitment (x2), Substance Misuse Policy, addressed envelope  
Substance Misuse Policy Appendix C



## Employee Recovery Commitment

This recovery commitment must be agreed and signed by any employee embarking upon a supported recovery programme whilst working for the Shetland Charitable Trust. Failure to agree to, or to meet, the following conditions may result in the implementation of the Trust's Disciplinary Procedure.

I agree to:

- Treat with respect all the people I have contact with in connection with my treatment.
- Keep my appointments and arrive at them on time.
- Accept responsibility for any prescription medication.
- Provide regular samples for drug/alcohol screening.
- Give my 'permission to liaise', allowing the sharing of relevant information, by the appropriate professionals involved in my treatment.
- Participate in OH reviews every 3 months; or more frequently if required.
- Be honest with the Trust about any relapse into substance misuse.

Employee Name (capital letters).....

Employee Signature.....

Date.....

## Employer Commitment

In return for adherence to the above employee commitment, the Trust agrees to:

- Treat the above named employee with respect.
- Provide an employee, who is continuing to work, with paid time off to attend regular counselling and support sessions with CADSS.
- Facilitate access to appropriate support services, such as CADSS.
- Provide Occupation Health appointments / reviews every 3 months, or more frequently if required.
- Maintain confidentiality and only share relevant information with the appropriate personnel who are dealing with this case.

Chief Executive: Ann Black

**Private & Confidential**

Name

Address

Telephone: 01595 744994

mail@shetlandcharitabletrust.co.uk  
If calling please ask for

Direct Dial: 01595 744994

Our Ref:

Date:

Your Ref: -

Dear

**Substance Misuse Policy**

As you are aware, an incident occurred on **(insert date at insert time)** when **(delete as appropriate)** you were suspected to be under influence of a substance at work, / or after an accident or incident at work, / or after a near accident or incident at work as a **(insert employee's post title)** at **(insert work place)**. Following this you **(delete as appropriate)** consented/did not consent to an alcohol and drug test, which took place on **(insert date at insert time)**. I therefore confirm that you are now required to attend a meeting with myself, and a member of Human Resources, at **(insert venue)** on **(insert date)** at **(insert time)**. This meeting will give us the opportunity to discuss the results of the drug/alcohol test carried out under the terms and conditions of the Trust's Substance Misuse Policy. You have a right to be accompanied by a union representative or colleague at the hearing; please let me know if you intend to bring someone along. I enclose a copy of our Substance Misuse Policy for your information and would recommend you read this before attending our meeting.

Yours sincerely

**Chief Executive**

Enc

Chief Executive: Ann Black

**Private & Confidential  
RECORDED DELIVERY**

Name

Address

Telephone: 01595 744994

mail@shetlandcharitabletrust.co.uk  
If calling please ask for

Direct Dial: 01595 744994

Our Ref:

Date:

Your Ref: -

Dear

**Substance Misuse Recovery Contract**

Following our meeting of **(insert date at insert time)**, regarding the above and your subsequent appointments with the Community Alcohol and Drugs Shetland Service (CADSS) and Occupational Health (OH), I now confirm that the following Substance Misuse Recovery Contract and attached Care Plan (agreed between the employee and CADSS) have been put in place for you.

As you are aware, from previous discussions held, an important objective of the Shetland Charitable Trust Substance Misuse Policy (as attached) is to assist employees in overcoming substance dependence (Section 12). *I would like to reassure you that your condition will be treated, in the same way as someone unfit for work through illness provided you comply with the terms and conditions set out below: - (OR if disciplinary action is taking place (delete as appropriate) As discussed, in conjunction with the disciplinary action you are subject to, you must comply with the terms and conditions set out below: -*

- a) You must not consume alcohol or take substances at a level which is likely to interfere with your health or performance at work (CADSS and OH have advised total abstinence).
- b) You must attend Occupational Health appointments for regular monitoring and surveillance as required and comply with all medical advice offered to you.
- c) You must comply with the attached Care Plan agreed between yourself, CADSS and the Shetland Islands Council.
- d) As part of your recovery, you are strongly encouraged to attend appropriate after-care groups, such as those provided by CADSS, Alcoholics Anonymous (AA) or Narcotics Anonymous (NA) for a period of at least 6 months.
- e) You must keep all regular medical appointments and comply with the treatment regimes.
- f) You must not behave in anyway which would lead us to believe that

you have re-commenced substance or alcohol misuse.

It is vital that you comply with these terms and conditions. *Wherever you do so your condition will continue to be treated in the same way as someone unfit for work through illness. However, if you default, disciplinary action is likely to follow which could potentially lead to your dismissal. (Delete the last two sentences if disciplinary action is taking place.)*

During our discussion I stressed the importance of identifying someone you can talk to if you feel you are having problems, which may result in you breaking this contract. Shetland Charitable Trust and its Occupational Health Service are here to support you. Should you need to contact myself on the above number please feel free to do so. Please also refer to our list of contacts including support services, counselling agencies, local and national help lines on pages 12 and 13 of the Substance Misuse Policy.

**Two copies of this letter are enclosed, please sign one copy to signify your acceptance of the contract terms and return to me by XXX (7 days from date of letter). You should keep the second copy as it is for your records.**

Yours sincerely

**Chief Executive**

**Cc: Human Resources Advisor / Officer**

**Occupational Health**

Enc: CADSS Care Plan, Substance Misuse Policy, Copy of Letter

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## **FORM OF ACCEPTANCE**

I agree to comply with the terms and conditions detailed in the Substance Misuse Recovery contract. I understand that this contract will remain in place permanently unless both parties jointly agree that it is cancelled. I understand that if I default then I will be liable to disciplinary action.

Name.....

Signed.....

Date.....