

## **Charity Reorganisation – Summary of Application**

### **Introduction to Proposed Scheme**

Shetland Charitable Trust (SC027025) has applied to the Office of the Scottish Charity Regulator (OSCR) for approval of a reorganisation scheme for a variation of the Constitution of the charity under section 42(3)(a) of the Charities and Trustee Investment (Scotland) Act 2005 (the 2005 Act).

Shetland Charitable Trust was established in 1997 “to make grants or loans with or without interest out of the income or capital of the Trust Fund for any purposes which in the opinion of the Trustees are solely in the interests of the area administered by the local or other governmental authority for the time being of the Shetland Islands or of the inhabitants of the said area (hereinafter referred to as “the community”) and provided that any such grant or loan is for charitable purposes.” The Constitution is supplemented by Administrative Regulations.

### **Reorganisation Conditions**

The charity is applying for reorganisation because it considers that:

- a provision of the charity's constitution (other than a provision setting out the charity's purposes) can no longer be given effect to or is otherwise no longer desirable (section 42(2)(c) of the 2005 Act).

The trustees suggest that this condition is met because of the potential for conflicts between the duties of the charity trustees as individuals and the duties of those charity trustees who are also Councillors of Shetland Islands Council. This potential for conflicts has given rise to questions from the beneficiaries and OSCR over the governance arrangements and decision-making processes specified in the charity's Constitution.

### **Outline of Proposed Scheme**

The proposed changes can be summarised as follows:

1. The preamble to the Constitution is to be amended to deal with the conveyance of the assets of the charity from the existing body of Trustees to the new body of Trustees and to incorporate a Schedule of Governance Arrangements (‘the Schedule’).
2. The Schedule proposes a new body of 15 trustees, each of whom must be principally resident in the Shetland Islands. The trustee body will be made up of 8 Appointed Trustees, recommended by a Selection Panel

and appointed by the Trustees, and 7 Councillor Trustees who are elected members of, and appointed by, Shetland Islands Council. The workings of the Selection Panel will be dealt with in new Administration Regulations, which will be drawn up if the Reorganisation Scheme is implemented. The Administrative Regulations will reflect any consequential changes required by virtue of the Governance Arrangements.

3. The quorum for a meeting of Trustees is 6 trustees, at least 3 of whom must be Appointed Trustees. In the event of an equality of votes, the Chair of the Trust (or, in his absence, the Vice Chair or the person presiding at the meeting) will have the casting vote. The Chair and Vice Chair will be elected by the Trustees.
4. The Schedule outlines more extensive provisions relating to the charity's administration including but not restricted to:
  - The manner in which vacancies arising in the number of trustees may be filled;
  - Length of a trustee term and maximum length of service of trustees;
  - The requirement for a break in service if the maximum period in office is served;
  - Appointments of a Chair and Vice-Chair;
  - Minimum requirement to attend one-half of meetings of the trustees in each financial year with provision to allow removal by resolution for failure to do so;
  - Composition and purpose of the Selection Panel;
  - Requirement and purpose of an Annual General Meeting in public.
5. The Schedule also sets out a process to deal with the transition from the existing body of Trustees to the new body of Trustees.

**The proposed "Schedule of Governance" can be viewed in full as an appendix to this summary.**

### **Reasons for Reorganisation**

The Charity's existing Constitution has not been amended since it was executed in September 1997, prior to the enactment of the 2005 Act.

The Trustees wish to make the changes to the charity in order to deal with issues surrounding the management of conflicts of interest in transactions between the charity and Shetlands Islands Council, independence of action and generally to update the governance provisions and bring them more in line with current good practice to ensure that the Constitution models current best practice.

It is a concern that some of the beneficiary group may have lost confidence in some of the actions of the Trustees. The Trustees have agreed to submit this application substantially in accordance with the recommendations of the charity's Governance Review Group.

The changes proposed will mean that, where a conflict of interest exists for Councillor Trustees, there will be a sufficient number of Appointed Trustees to manage such conflicts and to continue the business of the Trust. The introduction of Appointed Trustees will help to ensure independence of the charity from the Council.

The introduction of Appointed Trustees is intended to ensure that the body of Trustees can more readily meet the skills requirements for the governance of the charity by allowing appointments to be made to fill any identified skills gaps.

The trustees suggest that the additional governance arrangements are in line with modern thinking and practice and as such will lead to greater transparency.

Finally, and cumulatively, the proposed changes are intended to result in an increase in confidence in the charity and its operations amongst the beneficiary group, and to resolve concerns about governance expressed by OSCR.

The trustees suggest that charity reorganisation will enable the charity to be administered more effectively (section 39(1)(b)(ii) of the 2005 Act).

### **Further information**

Further information on this application for charity reorganisation may be made available, upon request. Please contact OSCR on 01382 220446 and ask to speak to a member of staff in the Charities Team for further details.

### **How to object to the proposed reorganisation scheme**

Should you wish to object to this proposed reorganisation scheme, you may do so by writing to OSCR providing the following information:

- Your name and address
- The nature of your interest in the charity (if any), and
- The nature of your objection and the reasons for it.

These are the terms of Regulation 5 of the Charities Reorganisation (Scotland) Regulations 2007.

All objections should be sent to the following address:

OSCR – Charity Reorganisations  
2<sup>nd</sup> Floor Quadrant House

Riverside Drive  
Dundee  
DD1 4NY

Objections can be made up to 14 days following the end of the publication period. The latest date for the receipt of objections is **19 April 2012**.

A copy of any objections may be provided to the applicant charity for comment. If you do not wish the charity to be provided with your personal details, please indicate this in your objection.

Personal details may otherwise be disclosed to the applicant charity.

**OSCR**  
**24 February 2012**