



SHETLAND ISLANDS COUNCIL

CONSTITUTION

PART A

GOVERNANCE

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THE CONSTITUTION

PART A GOVERNANCE

The Council is a unitary authority originally established as a body corporate by Local Government (Scotland) Act 1973 and now constituted under Section 2 of the Local Government etc. (Scotland) Act 1994. The Council provides the full range of local government services to the people of Shetland, Britain's most northerly local authority area. Additional information is provided on the Council's website at <http://www.shetland.gov.uk>.

The Operation of the Council

The Council's Constitution sets out how the council operates, how decisions are made and the procedures that are followed to ensure that these are accessible, transparent and accountable to local people. The constitution comprises a number of parts and these parts set out the basic rules governing the way the Council conducts business.

Both Councillors and Council employees are servants of the public but their responsibilities are distinct. Councillors are responsible to the electorate; the employee is responsible to the Council as a whole. The Councillors' role is to determine policy, scrutinise performance and the achievement of outcomes, and to participate in decisions on matters placed before them. Direct operational management of the Council's services is the responsibility of the Council's Chief Executive and Corporate Management Team.

PART I

THE COUNCIL AND THE CITIZEN

1. The Constitution

Exercise of powers and duties

- (1) The Council will exercise all its powers and duties in accordance with the law and this Constitution.

The Constitution

- (2) This, together with the documents listed at the cover page is the Constitution of Shetland Islands Council.

Purpose of the Constitution

- (3) The purpose of the Constitution is to help –
- Enable the Council to provide clear leadership in the community and to the organisation;
 - Support the active involvement of citizens and partners in the process of council decision making;
 - Help councillors represent their constituents effectively;
 - Support rigorous options appraisal and review of different courses of action;
 - Enable decisions to be taken efficiently and effectively;
 - Create a powerful and effective means of holding decision makers to public account; and
 - Ensure that those responsible for decision making are clearly identifiable to local people and that they explain the reasons for decisions.

Interpretation and review of the Constitution

- (4) Where the Constitution permits the Council to choose between different courses of action, the Council will always choose the option that it thinks is closest to supporting the purposes set out in subparagraph (3).

2. Members of the Council

Composition

- (1) The Council comprises 22 Councillors representing 7 multi member wards of 3, and in one case, 4 members.

Election and term of councillors

- (2) The ordinary election of all councillors takes place on the first Thursday in May in years prescribed in statute.

Roles and functions of all councillors

- (3) All councillors –
- collectively act as ultimate policy makers and carry out a number of strategic and corporate functions;
 - represent their communities and bring their views into the Council's decision making process;
 - deal with individual casework on behalf of constituents assisting in resolving particular concerns or grievances;
 - act in the interests of Shetland as a whole and all of its inhabitants;
 - are available to represent the Council on other bodies; and
 - maintain the highest standards of conduct and ethics.

Appendix 1 contains a detailed description of the role and core competencies required of councillors.

Rights and duties

- (4) Councillors have an absolute right of access to meetings of the Council; they have a right of access also to meetings of the bodies within the political management framework, in accordance with the detailed provisions contained elsewhere in this Constitution. They have the right of access to the documents, information, land and buildings that are owned or in the possession or control of the Council in so far as such access is necessary for the proper discharge of their duties as a Councillor and in accordance with the law. Any doubt or questions arising will be resolved by the Executive Manager – Governance and Law in consultation with the Chief Executive.
- (5) Without the Council's consent, councillors must not make public information which is confidential or exempt (as defined in Section 50 of the Local Government (Scotland) Act 1973) or, except as may be required by law, divulge information given by an officer in confidence to them as a Councillor

or otherwise obtained by them because they are a Councillor to anyone other than another councillor or officer entitled to know it.

- (6) If a Councillor, throughout a period of six consecutive months, does not attend any meeting of the Council or any body which is part of the political management framework, or any joint Committee to which any function of the Council has been delegated, and unless the Member has been granted leave of absence by the Council, the Executive Manager - Governance and Law will inform the Council. In that event, the Council will consider whether the failure to attend was due to a reason approved by it. If the Council is not satisfied as to the cause of the failure, the Councillor will cease to be a Member of the Council.

Conduct

- (7) In the course of acting in the capacity of Councillor, Councillors must at all times observe the requirements of any law, the Councillors' Code of Conduct, and the provisions of this Constitution.

Remuneration and Expenses

- (8) Councillors are entitled to receive remuneration and expenses in accordance with regulations approved by Parliament for approved duties specified elsewhere in this Constitution.

3. The Full Council

Functions exercised by the full Council

- (1) Only the full Council will exercise the following functions which are set more fully in Part C –
- Adopting and changing the Constitution;
 - Approving, adopting or amending the Policy Framework and any plan, policy or strategy which is contained within the Policy Framework as noted in column 1 of sub-paragraph (2) with these being prepared and performance managed by the body shown in column 2;
 - Approving the budget, and expenditure not provided in the budget;
 - Appointing a Councillor to any position within the political management framework;
 - Agreeing and amending the terms of reference of bodies within the political management framework, deciding on their composition and making appointments to them;
 - Functions reserved to it in terms of detailed provisions elsewhere in this Constitution; and

- Making decisions about matters that by law are reserved to the full Council.

Policy framework

- (2) The policy framework means the following plans, policies and strategies and any other plan or strategy that the Council decides should be part of the Policy Framework:

Plan	Managing Body
Corporate Plans	
Shetland Community Plan and the Shetland Partnership's Local Outcomes Improvement Plan in so far as they relate to the provision of Council Services.	Policy and Resources Committee
The Corporate Plan	Policy and Resources Committee
The "Budget" which includes –	Policy and Resources Committee
a	Annually approved Directorate Plans
Relevant Functional Committee and Policy and Resources Committee	
b	Approved estimates of revenue expenditure and income
Relevant Functional Committee and Policy and Resources Committee	
c	The council tax base and setting the council tax
Policy and Resources Committee	
d	Any reserve funds
Policy and Resources Committee	
Asset Investment Strategy	Relevant Functional Committee and Policy and Resources Committee
Equalities Framework	Policy and Resources Committee
Medium Term Financial Plan	Policy and Resources Committee
Long Term Financial Plan	Policy and Resources Committee
Functional Plans	
Children and Young People's Services Plan	Education and Families Committee

Looked After Children Strategy	Education and Families Committee
Skills and Learning Strategy	Education and Families Committee
School Estate Strategy	Education and Families Committee
Childcare Strategy	Education and Families Committee
Sports and Physical Activity Strategy	Education and Families Committee
Joint Strategic Commissioning Plan [Adult Health and Social Care]	Integration Joint Board
Mental Health Strategy	Integration Joint Board
Older People's Strategy	Integration Joint Board
Dementia Strategy	Integration Joint Board
Autism Strategy	Integration Joint Board
Participation & Engagement Strategy	Integration Joint Board
Primary Care Strategy	Integration Joint Board
Oral Health Strategy	Integration Joint Board
Fairer Shetland Framework	Development Committee
Local Housing Strategy	Development Committee
Community Learning & Development Plan	Development Committee
Plans and strategies which together comprise the Local Development Plan	Development Committee
Strategic Housing and Investment Plan (SHIP).	Development Committee
Economic Development Policy Statement	Development Committee
Transport Strategy	Environment and Transport Committee
Plans and strategies which together comprise the Carbon Reduction Strategy	Environment and Transport Committee
Biodiversity Strategy	Environment and Transport Committee

Workforce Strategy	Policy and Resources Committee
Communications Strategy	Policy and Resources Committee
Asset Investment Plan	Policy and Resources Committee
Risk Management Strategy	Policy and Resources Committee
Investment and Treasury Strategy	Policy and Resources Committee
Commissioning and Procurement Strategy	Policy and Resources Committee
ICT Strategy	Policy and Resources Committee

Budget

(3) The “budget” includes –

- Annually approved Corporate and Directorate Plans;
- The approved estimates of revenue expenditure;
- Any reserve funds;
- The council tax base and setting the council tax;
- The approved programme of the Council’s capital expenditure and decisions relating to the control of the Council’s borrowing requirement.

Council meetings

(4) A meeting of any body within the political management framework will be conducted in accordance with the Council’s Standing Orders for Meetings contained in Part B of the Constitution.

Responsibility for functions

(5) The Council’s arrangements for the discharge of functions which are set out in the Council’s Scheme of Administration and Delegations contained in Part C of this Constitution provide for certain powers and duties of the Council to be discharged on the Council’s behalf collectively by a body within the political management framework, or by an officer.

4. Good Governance

The Council will conduct its business following the Principles set out in “The Good Governance Standard for Public Services” –

Principle 1

The organisation focuses on purpose, and outcomes for service users and citizens

- Being clear about the organisation’s purpose and intended outcomes for service users and citizens
- Making sure users receive high quality services
- Making sure taxpayers receive value for money

Principle 2

Good governance means performing effectively in clearly defined functions and roles

- Being clear about the functions of the governing body
- Being clear about the responsibilities of the executive and making sure they are carried out
- Being clear about relationships between the governors and the public

Principle 3

Promoting values for the whole organisation and demonstrating the values of good governance through behaviour

- Being clear about the organisation’s values and putting them into practice
- Individual governors behaving in ways to uphold and exemplify good governance

Principle 4

Good governance means taking informed, transparent decisions and managing risk

- Being rigorous and transparent about how decisions are taken
- Having and using good quality information, advice and support
- Making sure there is an effective risk management system

Principle 5

Good governance means developing the capacity of the governing body to be effective

- Making sure governors have the skills, knowledge and experience to perform well
- Developing those with governance responsibilities and evaluating their performance as individuals and as a group
- Striking a balance, in the membership of the governing body, between continuity and renewal

Principle 6

Engaging stakeholders and making accountability real

- Understanding accountability
- Taking an active and planned approach to dialogue with and accountability to the public
- Taking an active and planned approach to responsibility to staff
- Engaging effectively with partners and stakeholders

5. Decision making

Principles of decision making

(1) All decisions of the Council, or any body within the political management framework, will be made in accordance with certain immutable principles, which are –

- Decisions are taken (with certain exceptions) by a majority of those present and voting at a meeting
- Proportionality (that is to say, the action must be proportionate to the circumstances and desired outcome);
- Due consultation with and the taking of and hearing and consideration of professional advice from officers;
- Respect for human rights;
- A presumption in favour of openness; and
- Clarity of aims and desired outcomes.

Decision making by Council bodies acting as quasi-judicial bodies

(2) In acting as a tribunal or in a quasi-judicial manner the Council, a councillor or an officer must follow the Council's detailed proper procedure which accords with the requirements of natural justice and the right to a fair and impartial hearing in accordance with article 6 of the European Convention on Human Rights.

6. Citizens' Rights and the Council

Information

The Council is committed to open and transparent government and to meeting its responsibilities under the Freedom of Information (Scotland) Act 2002. The Council has a procedure for complying with the Act in relation to the provision of information and the conduct of reviews of decisions whenever requested.

(1) Citizens have the right to –

- Attend meetings of the Council, or any body within the political management framework except where confidential or exempt information (as defined in Section 50 of the Local Government (Scotland) Act 1973) is likely to be disclosed, and a resolution has been passed to exclude the public;
- See reports and background papers and any records of decisions made by the Council or any body within the political management framework, in accordance with the foregoing provisions of the Local Government (Scotland) Act 1973 and otherwise in accordance with the law;
- Inspect the Council's accounts in accordance with the relevant statutory provisions;
- Information held by the Council, in accordance with the Freedom of Information (Scotland) Act 2002;
- Personal information held by the Council in regard to them in terms of the Data Protection Act 1998.

Participation

(2) Citizens have the right –

- to raise issues of their choosing with the Council by petition or deputation or otherwise, and to represent their views to their local Councillor(s) and the Council in writing, by telephone and email, at Councillors' surgeries or other particular meetings; and to participate in accordance with the Community Consultation and Engagement Guide in forums or meetings arranged by the Council.

Complaints

(3) Citizens have the right to complain to –

- The Council under its complaints procedure about any service failure;

- The Scottish Public Services Ombudsman if their complaint has not been satisfactorily resolved under the Council's complaints procedure, and they believe they have suffered injustice as a result of maladministration on the part of the Council;
- Audit Scotland regarding any alleged irregularity in connection with the Council's accounts; and
- The Chief Investigating Officer of the Standards Commission for Scotland if they believe there has been a breach of the *Councillors' Code of Conduct*.

PART II

THE ROLE OF THE CONVENER, LEADER AND SENIOR COUNCILLOR CHAIRS

7. Senior Office Bearers

Convener

- (1) The Convener and, if appointed, the Vice Convener are elected by the Council and will normally hold office for the life of the Council unless s/he is removed from office in accordance with the provisions of the Local Government etc. (Scotland) Act 1994 and the provisions set out in the Scheme of Administration and Delegations at Part C of the Constitution.

Leader

- (2) The Leader of the Council will be a councillor elected to the position of Leader by the Council, and will normally hold office during the life of the Council unless s/he is removed from office by resolution of the Council.

Senior Councillor Chairs

- (3) There will be three Chairs appointed by the Council who will lead and be accountable for the following areas at political level within the Council –
 - Education and Families
 - Development
 - Environment and Transport

Appendix 1 contains a detailed description of the role and duties of the Convener, Leader and Chairs.

8. Political Management Framework

For the purpose of this Constitution the following bodies will be part of the Council's Political Management Framework which is set out in full in the Scheme of Administration and Delegations at Part C of the Constitution–

Policy and Resources Committee
Education and Families Committee
Development Committee
Environment and Transport Committee

Planning Committee
Licensing Committee
Audit Committee
Harbour Board
Shetland College Board

The Council may alter the framework at any time by the addition, removal or adjustment of bodies which form part of the framework. The overall Committee structure includes review and appeals Committees and other committees and sub-committees, as specified in Part C.

PART III

OFFICERS

9. Chief Officers

Chief Officers of the Council will comprise the holders of those posts which the Council determines from time to time. They will be appointed in accordance with the Protocol on Chief Officer Appointments.

Chief Executive

- (1) The Chief Executive is the head of the paid service in terms of Section 4 of the Local Government and Housing Act 1989 and is principal advisor to the Council on all matters of policy and strategic direction and is responsible for the implementation of Council aims and priorities, strategies and policies, including leading the delivery of Best Value and Community Planning.
- (2) The Chief Executive provides leadership, direction and motivation for staff and is responsible, amongst other things, for the management of the staff and the other resources of the Council to ensure that the Council's policies and priorities are delivered in an efficient and effective manner.

Directors

- (3) The Directors of the relevant Council Departments act with and support the Chief Executive to further the corporate interests and development of the Council.

Corporate Management Team

- (4) The Council's Corporate Management Team will comprise those officers appointed to be members of it by the Chief Executive.
- (5) The Corporate Management Team acts corporately, and is responsible for –
 - the operational management of the Council and its employees
 - delivering the Council's services
 - advising the Council on overall strategic and corporate development
 - achieving the outcomes contained in the Council's strategic policies and plans

10. The Monitoring Officer

- (1) The Chief Legal Officer (by whatever name) is the Council's Monitoring Officer in terms of Section 5 of the Local Government and Housing Act 1989 and in that capacity has the following functions –
 - (a) the statutory functions prescribed in that Act
 - (b) to report to the full Council if s/he considers that any decision or proposed decision on the part of the Council or any of its Members or Officer (collectively or individually) would be contrary to law or any decision, proposed decision or omission would be likely to give rise to a finding of maladministration
 - (c) to maintain the Council's Constitution and its governance arrangements, including the Code of Corporate Governance
 - (d) to deal with any matter referred to him/her by the Council, the Chief Executive, the Ombudsman or the Standards Commission.
- (2) In relation to circumstances outlined in subparagraph (b) above a notice issued by the Monitoring Officer that s/he intends to submit a report of the kind referred to, to the full Council, will have the effect of stopping the proposal or decision from being implemented until the report has been considered by the Council.

11. The Chief Finance Officer

The Chief Finance Officer (by whatever name) acts in terms of section 95 of the Local Government (Scotland) Act 1973 and section 35 of the Local Government in Scotland Act 2003 and the appropriate provisions of the Prudential Code for Capital Finance in Local Authorities, and has responsibility for the administration of the financial affairs of the Council and for the provision of financial advice to the Council. S/he makes the arrangements for keeping the accounts of the Council in terms of Section 96 of the 1973 Act.

12. Chief Social Work Officer

The Social Work (Scotland) Act 1968 (the 1968 Act) requires local authorities to appoint a single Chief Social Work Officer (CSWO) for the purposes of listed social work functions. In addition there are certain functions conferred by legislation directly on the CSWO by name. The Council's Chief Social Work Officer provides a strategic and professional leadership role in the delivery of social work services, and assists the Council and its partners in understanding the complexities and cross-cutting nature of social work service delivery – including in relation to particular issues such as corporate parenting, child protection, adult protection and the management of high risk offenders - and also the key role social work plays in contributing to the achievement of a wide range of national and local outcomes. The CSWO also has a contribution to make in supporting overall performance improvement and management of corporate risk.

The Public Bodies (Joint Working) (Scotland) Act 2014 provides for the delegation of certain social work functions by a local authority to an integration authority. The CSWO's responsibilities in relation to local authority social work functions continue to apply to functions which are being delivered by other bodies under integration arrangements. However, the responsibility for appointing a CSWO cannot be delegated and must be exercised directly by the local authority itself.

13. Suspension or Alteration of the Constitution

The Articles of this Constitution may not be suspended, except that the Standing Orders specified in Part B may be suspended to the extent permitted within them.

None of the Articles of this Constitution can be rescinded or altered, nor additional Articles created, unless:-

- A resolution to do so is passed after notice is given at a previous ordinary meeting of the Council; or
- A report is made to the Council by the Policy and Resources Committee or by the Chief Executive.

Appendix 1

SHETLAND ISLANDS COUNCIL

ROLE AND DUTIES OF COUNCILLORS

PART A: ALL COUNCILLORS

1. INTRODUCTION

The quality of elected political leadership is core to the effective governance of communities. It is no easy task being a Councillor. Society needs to have people, whether at a national or local level who are able, willing and prepared to take decisions on its behalf about matters which affect the lives of citizens and who are prepared to be accountable for these. Democratic election gives local Councillors a special status in public life which brings with it opportunities to contribute to the well being of society, and in doing so, responsibilities to act fairly and within the law. A Councillor represents and acts for everyone within his or her ward and not just those who voted for him/her. A Councillor must act collectively with all other Councillors in the wider interest of Shetland and everyone who lives there.

2. ROLE OF COUNCILLORS

Local government serves the people

As a Councillor, he or she will, therefore, participate as –

- A strategic policy maker
- An executive decision taker
- A scrutineer of the effectiveness of the Council in achieving its desired outcomes and delivering services

Local government represents the people

As a Councillor, he or she, therefore –

- is a representative of all of his or her constituents
- is a community leader providing a focus for the development of his or her community
- builds community engagement
- secures access to the Council and other public agencies

Local government makes rules

By participating in making or administering rules or decisions which affect the rights and obligations of citizens, and which include the granting or refusal of permissions, a Councillor, therefore –

- pays attention to relevant considerations and ignores irrelevant ones
- considers and weighs evidence
- considers each issue on its merits
- acts fairly and within the law

3. MAIN TASKS

- (1) Regular attendance at meetings of the Council, and of any Committee, Sub-Committee or other group to which the Councillor is appointed is an essential component of the policy making and executive decision taking life of the Council.
- (2) Dealing with issues raised by constituents by correspondence, telephone and in person on an ongoing basis, and making arrangements to facilitate access by constituents, including “surgeries” or in other ways, contributes to the representative role of the Councillor.
- (3) Actively being aware of issues, inside and outside the Council, affecting the Councillor’s electoral ward and the wider community fulfils a community leadership and representative function.
- (4) Working in partnership with other local organisations to identify and pursue local needs and aspirations and encouraging community action is fundamental to the role of community leader.
- (5) As a local community leader, Councillors will be invited by local organisations to participate in local forums and events which collectively provide a focus for community activity and development.
- (6) Representing the Council on other organisations or agencies to which the Councillor may be appointed or nominated by the Council represents an ambassadorial function articulating the Council’s policies and views and projecting the good image of the Council and Shetland.

4. CORE SKILLS AND COMPETENCIES

In response to the increasingly challenging environment in which Councillors operate, they need to have specific skills as well as those which enable them to perform effectively across the range of their role as councillor. A commitment to the ethos of public service lies at the heart of being a local Councillor. Active citizenship is a commitment to contributing to and focusing on what best improves the well-being of communities. Beyond those, succeeding with the role of being a Councillor requires a set of core skills. 14 core political skills are outlined below in 7 clusters.

Promoting Change and Improvement

- (1) Promoting and leading change
- (2) Providing and improving services

Political Understanding

- (3) Political awareness
- (4) Representation
- (5) Personal integrity and values

Working Collaboratively

- (6) Working with stakeholders
- (7) Effective partnership working

Effective Communicator

- (8) Effective communication

Effective Decision Maker

- (9) Negotiation and diplomacy
- (10) Decision making
- (11) Analysis and innovative problem solving

Effective Leader

- (12) Corporate focus and direction
- (13) Providing leadership and direction

Personal Effectiveness

- (14) Personal effectiveness skills

5. COUNCILLOR DEVELOPMENT

The aim is to help Councillors with the skills and knowledge which they require in order to assist them effectively to carry out their responsibilities, and the Council will provide a range of training opportunities in support of these. Councillors are expected to accept those opportunities for training which are provided.

A key feature is Continuous Professional Development (CPD) beginning with a Personal Development Plan, covering several areas –

- those skills and behaviours which the Councillor wishes to focus their development on.
- the methods by which these development needs will be met, such as through workshops, guided reading materials, e-learning programmes, self-development activities, etc.
- how resources/support for completing these development activities will be accessed
- the priority of each of the development areas
- a realistic timescale for completing development activities over the course of 12 months
- how the Councillor will know they have successfully developed their skills

PART B: SENIOR COUNCILLOR CHAIRS

6. ROLE

The Leader and Senior Councillor Chairs each have a clear individual leadership responsibility at political level for areas of activity and for achieving relevant outcomes and additional responsibilities are placed on these Councillors. Acting as spokespersons for their respective functional areas, these responsibilities include:-

- (1) Taking a corporate lead in the development of the Council as an organisation and the formulation and achievement of its strategic vision;
- (2) Contributing to the development of the Council's corporate strategies to help ensure the development of service policy within the corporate environment;
- (3) Leading on service matters of political/policy priority at meetings of the Council, Policy and Resources Committee and other committees and groups within the Council;
- (4) Chairing the relevant functional Committee and leading it in its work of service policy development and the performance management of services
- (5) Providing regular chairs reports to Policy and Resources Committee meetings on the areas of work for which they have responsibility, including reporting back on meetings with organisations and other events outside the Council;

- (6) Supporting the relevant Directors/Executive Managers in taking forward the development of service policy issues and their effective implementation, involving all relevant employees, service users and partner organisations;
- (7) In consultation with the Leader of the Council, promoting awareness of service strategies, achievements and constraints in order to inform the public, government and other organisations; to be an ambassador for the service locally and nationally;
- (8) Maintaining good communications with Council employees, providing a bridge between the Council and employees to provide a policy background for, and recognition of, their work.

7. CONVENER

The Convener is the Councillor who chairs Council meetings and in that regard possesses the powers and duties given to him/her by statute, this Constitution and the common law.

The Convener has precedence, that is to say s/he is the first citizen of the Council area.

The Convener's functions include –

- Undertaking civic and ceremonial functions on behalf of the Council and the community
- Upholding good governance and the Constitution and being the “conscience of the Council”
- Securing the rights of all Members to participate in Council's decision taking
- Acting as a focal point for the whole Shetland community
- Acting as an ambassador for and promoting the Council and Shetland as civic leader
- Promoting wider involvement in public life

8. LEADER

The Leader's functions include –

- Chairing the Policy and Resources Committee
- Providing political leadership and direction for the organisation, leading the Senior Councillor Chairs

- Working across the Council to establish clear political direction
- Promoting Council interests as political leader
- Representing the Council at meetings with Ministers, CoSLA and other partners
- Responsibility at political level for the management and maintenance of the Council's reputation
- Providing the key political level link between the officer structure and political structure

9. DEPUTE CONVENER

The Depute Convener functions include supporting and assisting the Convener in the carrying out of their duties and functions, and to deputise for the Convener in respect of the following duties when the Convener is absent –

- chairing meetings of the Council
- representing the Council and the community at civic and ceremonial functions

10. DEPUTE LEADER

The Depute Leader's functions include supporting and assisting the Leader in the carrying out of their duties and functions, and to deputise for the Leader in respect of the following duties when the Leader is absent –

- chairing the Policy and Resources Committee
- representing the Council at meetings with Ministers, CoSLA and other partners.

END