

## Minute

### Policy and Resources Committee

Tuesday, 1 March 2022, 09:30.

Microsoft Teams.



### Present

Councillors James W Stockan, W Leslie Manson, Stephen G Clackson, Alexander G Cowie, Norman R Craigie, Robin W Crichton, David Dawson, Andrew Drever, Barbara Foulkes, Steven B Heddle, J Harvey Johnston, Rachael A King, John T Richards, Stephen Sankey, John A R Scott, Gwenda M Shearer, Graham L Sinclair, Magnus O Thomson, Owen Tierney, Duncan A Tullock and Heather N Woodbridge.

### Clerk

- Hazel Flett, Senior Committees Officer.

### In Attendance

- John W Mundell, Interim Chief Executive.
- Stephen Brown, Chief Officer/Corporate Director, Orkney Health and Care.
- Karen Greaves, Corporate Director for Strategy, Performance and Business Solutions.
- Hayley Green, Corporate Director for Neighbourhood Services and Infrastructure.
- Gareth Waterson, Corporate Director for Enterprise and Sustainable Regeneration.
- James Wylie, Corporate Director for Education, Leisure and Housing.
- James Buck, Head of Marine Services and Transportation.
- Peter Diamond, Head of Education (for Items 1 to 12).
- Andrew Groundwater, Head of HR and Performance.
- Colin Kemp, Interim Head of Finance.
- Roddy Mackay, Head of Planning, Development and Regulatory Services (for Items 1 to 11).
- Kenneth MacPherson, Interim Head of IT and Facilities.
- Gavin Mitchell, Head of Legal Services.
- Sweyn Johnston, Strategic Projects Director.
- Garry Burton, Leisure and Culture Service Manager (for Items 9 and 10).
- Laura Cromarty, Transportation Manager (for Items 4 to 14).
- Ian Rushbrook, Capital Programme Manager.
- Kerry Spence, Community Learning and Development and Employability Service Manager (for Items 1 to 11).
- Lindsey Johnson, Community Learning and Development Team Leader (Employability) (for Items 1 to 11).

## **Observing**

- Lynda Bradford, Head of Health and Community Care (for Item 18).
- Lorna Richardson, Interim Head of Roads, Fleet and Waste.
- Frances Troup, Head of Community Learning, Leisure and Housing (for Items 1 to 14).
- Rosemary Colsell, Procurement Manager (for Items 5 to 7).
- David Hannon, Strategic Projects Manager (for Items 18 to 25).
- Paul Olvhoj, Business Development Manager (for Items 4 to 11).
- Jackie Thomson, Development and Regeneration Manager (for Items 1 to 11).
- Kirsty Groundwater, Communications Team Leader.
- Nick Hewitt, Team Leader (Culture) (for Items 1 to 10).
- Sandra Craigie, Committees Officer (for Items 1 to 12).

## **Declarations of Interest**

- Councillor J Harvey Johnston – Items 19, 20 and 21.
- Councillor Duncan A Tullock – Items 19, 20 and 21.

## **Chair**

- Councillor James W Stockan.

## **1. Disclosure of Exempt Information**

The Committee noted the proposal that the public be excluded from the meeting for consideration of Items 18 to 24, as the business to be discussed involved the potential disclosure of exempt information of the classes described in the relevant paragraphs of Part 1 of Schedule 7A of the Local Government (Scotland) Act 1973 as amended.

## **2. Capital Expenditure Monitoring**

After consideration of a report by the Head of Finance, copies of which had been circulated, the Committee:

Noted:

**2.1.** The summary financial position, as at 31 December 2021, in respect of the approved General Fund and Non-General Fund capital programmes, as detailed in section 3.1 of the report by the Head of Finance, which indicated actual expenditure incurred as at 31 December 2021 of £8,876,000.

**2.2.** That the Head of Finance had reprofiled the capital programme for 2021/22, taking slippage and current timescales for completion of individual capital projects into consideration, in order to reflect the estimated outturn position for the current financial year.

The Committee scrutinised:

**2.3.** The detailed analysis of capital expenditure, together with project updates in respect of the General Fund and the Non-General Fund capital programmes, attached as Appendix 1 to the report by the Head of Finance, and obtained assurance on progress being made with delivery of the approved capital programmes.

The Committee resolved to **recommend to the Council**:

**2.4.** That the sum of £4,885,000 be carried forward from 2021/22 to 2022/23 and onwards in respect of slippage on projects contained within the General Fund capital programme.

**2.5.** That the sum of £7,918,000 be carried forward from 2021/22 to 2022/23 and onwards in respect of slippage on projects contained within the Non-General Fund capital programme.

Due to internet connectivity issues, Councillor Graham L Sinclair left the meeting during discussion of this item and rejoined the meeting at this point.

### **3 Treasury Management Strategy Statement and Annual Investment Strategy**

After consideration of a report by the Head of Finance, together with an Equality Impact Assessment, copies of which had been circulated, the Committee:

Resolved to **recommend to the Council** that the Treasury Management Strategy Statement and Annual Investment Strategy for 2022/23, attached as Appendix 1 to this Minute, be approved.

### **4. Regulation of Investigatory Powers**

After consideration of a report by the Corporate Director for Strategy, Performance and Business Solutions, together with an Equality Impact Assessment, copies of which had been circulated, and after hearing a report from the Head of Legal Services, the Committee:

Noted:

**4.1.** That, on 5 May 2021, the Council reviewed its policies and procedures in connection with the exercise of its statutory powers to conduct covert surveillance.

**4.2.** That, in terms of the Codes of Practice issued by the Scottish Government relating to the use of covert surveillance and use of covert human intelligence sources by public authorities, the policies and procedures of a local authority relating to its use of covert surveillance should be reviewed by Elected Members at least once a year.

**4.3.** That, since 5 May 2021, there had been no changes in the law or to relevant guidance in connection with the Council's statutory powers to conduct covert surveillance.

**4.4.** That, since 5 May 2021, there had been no cause by the Council to exercise its statutory powers to conduct covert surveillance.

**4.5.** That, since 5 May 2021, the Council had approved Phase 1 of a revised Corporate Management Structure which had resulted in updates to certain roles and responsibilities in relation to the Council's arrangements for the conduct of covert surveillance.

**4.6.** That the following policies and procedures had been amended to reflect the aforementioned updates:

- Policy on Covert Surveillance.
- Procedure for Authorisation of Covert Surveillance.
- Policy on Use of Covert Human Intelligence Sources.
- Procedure for Authorisation of the Use of Covert Human Intelligence Sources.
- Surveillance through Social Media Policy.

**4.7.** That, subject to the aforementioned updates to roles and responsibilities, no further amendments were proposed to the Council's policies and procedures.

The Committee resolved to **recommend to the Council:**

**4.8.** That the updated policies and procedures in connection with the Council's arrangements for covert surveillance, attached as Appendices 2 to 6 to this Minute, incorporating the updates referred to in paragraph 4.6 above, should be approved.

Councillor Barbara Foulkes left the meeting at this point.

## **5. Governance Arrangements for Human Resource Matters**

After consideration of a report by the Corporate Director for Strategy, Performance and Business Solutions, copies of which had been circulated, and after hearing a report from the Head of HR and Performance, the Committee:

Noted:

**5.1.** That the governance arrangements in respect of the staffing establishment, which had been in place for a number of years, required relatively straightforward staffing decisions to be made by either the Chief Executive or via the relevant Service Committee.

**5.2.** That the governance arrangements included a process which was outdated and unnecessarily time consuming for a range of officers across the Council, did not adequately reflect the level of authority and accountability that people managers and budget holders should have in respect of their staffing and was not considered sufficiently responsive.

**5.3.** That, on 19 May 2021, when considering revisions to the Scheme of Administration and the Scheme of Delegation to Officers, the Policy and Resources Committee noted that the proposed management restructure, if approved, may well require further amendments to the Schemes.

**5.4.** That, following a review of the process regarding changes to the staffing establishment, further delegation, as set out in section 4.2 of the report by the Corporate Director for Strategy, Performance and Business Solutions, was proposed.

**5.5.** That, should the proposed delegation referred to at paragraph 5.4 above be approved, the Corporate Director for Strategy, Performance and Business Solutions would update the Scheme of Administration and the Scheme of Delegation to Officers accordingly.

The Committee resolved to **recommend to the Council**:

**5.6.** That the undernoted delegation to officers in respect of the staffing establishment be approved:

- Establishment of new or additional permanent posts, with the exception of Chief Officer posts – delegated to the Chief Executive.
- Temporary posts, excluding posts of Chief Officer:
  - Up to two years – delegated to Head of Service, in consultation with Human Resources (HR).
  - Over two years and up to four years overall duration – delegated to relevant Corporate Director, in consultation with HR.
  - Over four years – delegated to Chief Executive, in consultation with HR.
- Temporary posts of Chief Officer of up to two years – delegated to the Chief Executive, in consultation with Head of Finance and HR.
- Chief Officers – delegated to the Chief Executive to determine the relevant salaries for Corporate Directors and Heads of Service.

## **6. Our People Our Plan – Progress Update**

After consideration of a report by the Chief Executive, copies of which had been circulated, the Committee:

Noted:

**6.1.** That, in summer 2021, the Senior Management Team considered the emerging context for the Council and proposed a credible and deliverable plan providing co-ordinated effort on critical collective priorities, known as Our People Our Plan.

**6.2.** Progress to date in progressing the priorities determined within the Our People Our Plan programme, detailed in sections 4 to 10 of the report by the Chief Executive.

**6.3.** The continued focus over the coming months that will be placed on the priorities within the Our People Our Plan programme in order to realise the key outcomes.

**6.4.** That, given the natural cycle of corporate/service planning was coming to an end in March 2022, performance reports to be considered by Service Committees in June 2022 would set out the current Corporate and Service Plan achievements to March 2022.

**6.5.** That, pending development of the Council's Corporate Plan 2023-2026, by November 2022, the interim performance reports would also include Our People Our Plan programme priorities.

## 7. Sustainable Procurement Policy

After consideration of a report by the Corporate Director for Neighbourhood Services and Infrastructure, together with an Equality Impact Assessment, copies of which had been circulated, and after hearing a report from the Interim Head of IT and Facilities, the Committee:

Noted:

7.1. That, on 22 June 2021, the Policy and Resources Committee recommended:

- That, subject to the undernoted being added to section 6, the draft updated Sustainable Procurement Policy be approved for consultation:
  - We will seek opportunities to share this approach with other statutory organisations and the third sector in Orkney to ensure best value and promote our circular economy.
- That the Executive Director of Development and Infrastructure should submit a report, to the meeting of the Committee to be held on 21 September 2021, detailing the outcome of the consultation exercise, referred to above, together with a final version of the Sustainable Procurement Policy.
- That the Sustainable Procurement Impact Assessment, attached as Appendix 6 to the Minute, be approved for immediate implementation.

7.2. That public consultation was undertaken in respect of the draft Sustainable Procurement Policy between 29 July and 19 August 2021.

7.3. The consultation report, attached as Appendix 1 of the report by the Corporate Director for Neighbourhood Services and Infrastructure, which detailed all the points raised by respondents.

7.4. That the draft Sustainable Procurement Policy had been updated to reflect the consultation responses where appropriate.

The Committee resolved to **recommend to the Council**:

7.5. That the Sustainable Procurement Policy, attached as Appendix 7 to this Minute, be approved.

## 8. Driving at Work

After consideration of a report by the Corporate Director for Neighbourhood Services and Infrastructure, copies of which had been circulated, and after hearing a report from the Interim Head of IT and Facilities, the Committee:

Noted:

8.1. That the Driving at Work Policy, which was last reviewed by the Policy and Resources Committee on 26 November 2019, had been revised and updated.

**8.2.** That revisions to the Driving at Work Policy had resulted in significant changes to the separate handbook, attached as Annex 2 to the report by the Corporate Director for Neighbourhood Services and Infrastructure, which set out arrangements and procedures for fleet drivers and vehicles, and also contained information for private car drivers.

The Committee resolved to **recommend to the Council**:

**8.3.** That the updated Driving at Work Policy, attached as Appendix 8 to this Minute, be approved.

## **9. Corporate Risk Register**

After consideration of a report by the Corporate Director for Neighbourhood Services and Infrastructure, copies of which had been circulated, the Committee:

Resolved to **recommend to the Council** that the updated Corporate Risk Register as at January 2022, attached as Appendix 9 to this Minute be approved.

Due to internet connectivity issues, Councillor Magnus O Thomson left the meeting during discussion of this item and rejoined the meeting at this point.

## **10. UK Government – Levelling Up Fund**

After consideration of a joint report by the Corporate Director for Enterprise and Sustainable Regeneration and the Corporate Director for Education, Leisure and Housing, copies of which had been circulated, the Committee:

Noted:

**10.1.** That, on 22 June 2021, when considering an update on the UK Government's Levelling Up Fund and a proposed strategy for submission of future applications, together with the human resources required to support development of bids to the Fund, the Policy and Resources Committee noted:

- That the UK Government had launched a Levelling Up Fund of £4.8 billion to support infrastructure and transportation projects across the UK.
- That councils were the lead authorities to apply to the Levelling Up Fund, with Orkney having eligibility to submit up to two bids, one for each of the infrastructure and transportation elements of funding.
- That councils could be successful in only one bid for each category during the four year lifetime of the Levelling Up Fund.
- That there were to be a number of rounds of funding bids to be invited by the UK Government, with the first round closing on 18 June 2021, and a further round anticipated later in 2021, with decisions in time for projects to commence at the start of financial year 2022/23.
- That the UK Government would provide capacity funding of £125,000 to the Council, which could be utilised to support development of bids to the Levelling Up Fund, including staff resource.

**10.2.** The Policy and Resources Committee recommended:

- That the Council should not submit a bid to the first round of applications to the UK Government Levelling Up Fund, which were due for submission by 18 June 2021.
- That a temporary post of Projects and Funding Officer, G8, be established, for a period of up to 18 months, to be funded from the capacity funding to be provided by the UK Government, in order to lead in the preparation of bids to the Levelling Up Fund, with the target for that work to be submission of bids to the next round of funding, expected to be late 2021 or early 2022.

**10.3.** That, to date, there had been no announcement by the UK Government regarding a launch date for a second round of bids, but it had been indicated that bids would now be invited in Spring 2022.

**10.4.** That, despite three rounds of open advertising and an uplift in salary grade, it had not been possible to attract a suitable candidate for the post of Projects and Funding Officer.

**10.5.** That officers had subsequently been in discussion with representatives of Hub North Scotland, who had assisted a number of other local authorities with the submission of Round 1 bids to the UK Levelling Up Fund.

**10.6.** That, although as yet unconfirmed, it was anticipated that, as for Round 1, Orkney would have the opportunity to submit two successful bids over the lifetime of the Levelling Up Fund, namely a transport-related bid and one other infrastructure bid.

**10.7.** That draft outline project proposals for submission to the Levelling Up Fund were invited from across the Council, to be submitted initially to the Interim Executive Director of Finance, Regulatory, Marine and Transportation Services by 6 January 2022, with two project proposals subsequently received, namely:

- Upgrading harbour infrastructure at Papa Westray, North Ronaldsay and Graemsay to accommodate the existing ro-ro fleet.
- Orkney's Cultural Nexus.

**10.8.** That a further proposal regarding establishment of a fixed link between two of the North Isles and/or replacement of one of the existing ferries with a new vessel fuelled by a low carbon fuel, was also under consideration as a potential bid to a future funding round.

**10.9.** That, as Orkney's Cultural Nexus was in the early stages of development, it was not considered that the proposal could be adequately developed, with a full understanding of the revenue implications, for submission to Round 2 of the Levelling Up Fund.

**10.10.** That, in January 2022, Hub North Scotland was contracted to prepare two bids to the Levelling Up Fund, with preparation of bids due to commence on 7 February 2022 and completion proposed by 30 April 2022.



On the motion of Councillor Steven B Heddle, seconded by Councillor Stephen Sankey, the Committee resolved to **recommend to the Council**:

**10.11.** That Hub North Scotland should cease further development of the Orkney's Cultural Nexus proposal at this time, but should continue to prepare the project relating to upgrading harbour infrastructure at Papa Westray, North Ronaldsay and Graemsay, to accommodate the existing ro-ro fleet, for submission to Round 2 of the Levelling Up Fund.

**10.12.** That Hub North Scotland should be engaged to develop a bid, for a subsequent round of the Levelling Up Fund, in respect of a fixed link between two of the North Isles and/or replacement of one of the existing ferries with a new vessel fuelled by a low carbon fuel.

**10.13.** That the Corporate Director for Enterprise and Sustainable Regeneration should look at projects being developed elsewhere to identify other relevant and worthwhile projects that would deliver levelling up for and within Orkney, as well as projects that related to priorities in the Council Plan, with particular attention to upgrading the Churchill Barriers.

**10.14.** That the Corporate Director for Enterprise and Sustainable Regeneration should thereafter submit a report, to the Policy and Resources Committee in due course, on options for a Round 3 bid to the Levelling Up Fund, including the following:

- Establishment of a fixed link between two of the North Isles.
- Replacement of one of the existing ferries with a new vessel fuelled by a low carbon fuel.
- Orkney's Cultural Nexus.
- Projects as identified in accordance with paragraph 10.13 above.

**10.15.** That, due to the undefined submission timetable, the Chief Executive be authorised to submit the bid in respect of upgrading harbour infrastructure at Papa Westray, North Ronaldsay and Graemsay, to accommodate the existing ro-ro fleet, to Round 2 of the UK Levelling Up Fund.

Councillor Barbara Foulkes rejoined the meeting during discussion of this item.

## **11. Kickstart Scheme**

After consideration of a report by the Corporate Director for Education, Leisure and Housing, together with an Equality Impact Assessment and an Island Communities Impact Assessment, copies of which had been circulated, and after hearing a report from the Community Learning and Development Team Leader (Employability), the Committee:

Noted:

**11.1.** That, on 22 June 2021, when considering resourcing Kickstart placement opportunities within Orkney Islands Council, the Policy and Resources Committee recommended:

- That an allocation of up to £106,600, to be met from the Council's Coronavirus Response Fund, be committed to enable the Council to employ up to 20 young people, aged 16-24, depending on availability of management and supervisory support, for a six-month period under the Kickstart Scheme.
- That the Executive Director of Education, Leisure and Housing should submit a report, to the Committee no later than March 2022, evaluating the six-month pilot of the Kickstart Scheme and considering proposals for a further phase.

**11.2.** That, since June 2021, the Community Learning and Development, Employability Team, together with Human Resources colleagues, worked with managers across the Council and submitted 19 job vacancy templates for the Kickstart scheme to the Department for Work and Pensions, which were subsequently agreed.

**11.3.** That existing Council recruitment procedures were adapted to ensure the process was simplified and accessible whilst adhering to all current Orkney Islands Council recruitment requirements.

**11.4.** That Kirkwall Job Centre Plus colleagues advised that 12 individuals met the Kickstart eligibility criteria, namely they were 16 to 24-year olds on Universal Credit, at risk of long-term unemployment, who would be work ready at the time of recruitment.

**11.5.** That, in total, 26 applications for various Kickstart positions were received from the 12 individuals, with 11 young people interviewed for various positions within the Council, with some interviews pending.

**11.6.** That eight of the 12 young people eligible for the Kickstart scheme had been offered conditional positions within the Council, including placements in Marine Services, Community Learning and Development, School Catering, Human Resources and the Chief Executive's Service.

**11.7.** That a sum, ranging from £22,032 to £42,624, of the original allocation of up to £106,600 would be utilised in delivering the current Kickstart Scheme, leaving a potential unallocated balance of up to £84,568.

**11.8.** That the Local Employability Partnership had highlighted that there were significant numbers of individuals who did not meet the Kickstart eligibility criteria but would benefit significantly from a supported employment opportunity.

**11.9.** The proposal to further develop the principles of the Kickstart scheme, by providing additional fully funded 6-month supported work placements within the Council, for a wider group of targeted beneficiaries, highlighted at both local and national levels as priority groups under No One Left Behind.

The Committee resolved to **recommend to the Council:**

**11.10.** That the unallocated balance of funding for the Kickstart scheme, amounting to a maximum sum of £84,568, be utilised to provide fully funded 6-month supported work placements within the Council for a wider group of targeted beneficiaries, highlighted at both local and national levels as priority groups under No One Left Behind, including those over 25's, people with disabilities, care experienced and lone parents.

## **12. Proposed New Nursery at Orkney College**

### **Stage 2 Capital Project Appraisal**

After consideration of a report by the Corporate Director for Education, Leisure and Housing, copies of which had been circulated, and after hearing a report from the Head of Education, the Committee:

Noted:

**12.1.** That, on 30 June 2020, when considering six options for the provision of early learning and childcare in Orkney, the Council resolved that Option 6, being a hybrid option including elements of Options 2 and 5, in order to meet the short and long term needs for early learning and childcare, be adopted, which incorporated the following:

- Temporary provision of a 0-5 year olds and out of school care service.
- Building suitable accommodation for a new provision adjacent to Orkney College.
- Undertaking a tender exercise for a commercial operator to run a service for 0-5 year olds.
- Formally requesting financial support, including capital contributions, from partners within the Orkney Community Planning Partnership.

**12.2.** That the design service for a new Kirkwall nursery was the subject of a procurement process, with the contract awarded to Robert Potter and Partners LLP.

**12.3.** That the proposed new nursery at Orkney College appeared to be a good fit with the target outcomes and impacts of the Islands Infrastructure Fund, which would be a bidding fund from 2022/23 onwards.

The Committee resolved to **recommend to the Council:**

**12.4.** That the Stage 2 Capital Project Appraisal in respect of the proposed new nursery at Orkney College, attached as Appendix 10 to this Minute, be approved.

**12.5.** That the Corporate Director for Education, Leisure and Housing should submit an application to the Islands Infrastructure Fund for 2023/24 in respect of the proposed new nursery at Orkney College, which maximised the level of grant funding within the Fund guidelines once established.

**12.6.** That, as an exception to the Capital Project Appraisal process and conditional upon success of the application to the Islands Infrastructure Fund, the proposed new nursery at Orkney College be added to the capital programme for 2022/23 onwards, at a gross cost of £2.52 million.

## **13. Sustainable and Green Transport Fund**

After consideration of a report by the Corporate Director for Enterprise and Sustainable Regeneration, copies of which had been circulated, and after hearing a report from the Transportation Manager, the Committee:

Noted:

**13.1.** That, in accordance with the new public bus contract which commenced in August 2021, passenger and concessionary fare income from all subsidised public bus services on mainland Orkney would be passed back to the Council.

**13.2.** That the public bus contract was awarded on a zero fares basis as it removed the risk of income generated through fares from the bus company to the Council, which was an uncertain element due to the COVID-19 pandemic and therefore allowed for the contract to be priced without an allowance for risk.

**13.3.** That, although fare income on public bus services had declined since the COVID-19 pandemic, the revenue to be generated from passenger fares on Council subsidised routes was anticipated to be in the region of £90,000 to £100,000 per annum.

**13.4.** That the revenue to be generated from passenger fares on Council subsidised routes could be applied as a saving against the recurring service pressure growth of £94,500 for the School and Public Bus Service contract that was included in the draft revenue budget for 2022/23.

**13.5.** That the public bus contract also allowed for an annual review of contract rates, with an increase capped at up to a maximum of 3%, estimated at £25,000 per annum.

**13.6.** The proposal to establish a Sustainable and Green Transport Fund, utilising passenger fare income from subsidised public bus routes, specifically for sustainable transport initiatives, including active travel, as a means to off-set existing transport CO2 emissions and to invest in sustainable and green transport solutions for the future.

**13.7.** Potential projects, detailed in Appendix 1 to the report by the Corporate Director for Enterprise and Sustainable Regeneration, which could be funded from the proposed Sustainable and Green Transport Fund.

The Committee resolved to **recommend to the Council:**

**13.8.** That passenger fare income from subsidised public bus routes be utilised to establish a Sustainable and Green Transport Fund, rather than being applied as a saving against the recurring service pressure growth for the School and Public Bus Service contract.

**13.9.** That a proportion of the passenger fare income from subsidised public bus routes on mainland Orkney, estimated at £25,000 in 2022/23, be retained to meet the cost of the review of contract rates for public bus services, capped at a maximum of 3% per annum, beyond the 1% inflationary uplift to budgets.

**13.10.** That the remaining income received through passenger fares from subsidised public bus routes, estimated at up to £75,000 during 2022/23, be set aside in a Sustainable and Green Transport Fund.

**13.11.** That application of the funding set aside in the Sustainable and Green Transport Fund, referred to at paragraph 13.10 above, be delegated to the Corporate Director for Enterprise and Sustainable Regeneration, in consultation with the Head of Finance.

**13.12.** That the Corporate Director for Enterprise and Sustainable Regeneration should explore additional sources of funding to supplement the Sustainable and Green Transport Fund during 2022/23.

**13.13.** That the Corporate Director for Enterprise and Sustainable Regeneration should submit a report to the Development and Infrastructure Committee, on an annual basis, outlining the investments made from the Sustainable and Green Transport Fund, together with proposed projects for subsequent years.

## **14. Green Freeport Status**

After consideration of a joint report by the Chief Executive and the Corporate Director for Enterprise and Sustainable Regeneration, copies of which had been circulated, and after hearing a report from the Head of Marine Services and Transportation, the Committee:

Noted:

**14.1.** That the Scottish and UK Governments had now come to an agreement to allow the Scottish Government to start the process of awarding two Green Freeports in Scotland over the coming months.

**14.2.** That the process would consist of a formal application, after the release of a full prospectus, which was expected in March 2022, that defined the guiding rules for regions that wished to make a bid, based on a draft prospectus which was released in March 2021.

**14.3.** That the formal process was expected to commence and be completed during the summer of 2022, with awards later in the year and Green Freeport designation awarded in 2023.

**14.4.** That any application made by Orkney would be focussed more on innovation and research and development opportunities and link in different types of sites across Orkney.

**14.5.** That an application was unlikely to be submitted that was based on the Freeport model in other nations, which was primarily focussed on large trade flows of goods to and from tax free sites.

**14.6.** That there may be an approach from other regions to open a discussion to include Orkney in a consortium bid although any consideration would need to be within the prospectus guidelines, with the limitation of the outer boundary defined as within a 45 kilometre distance in any direction.

**14.7.** That it was expected that a regional distribution for deciding the successful applications would be considered to ensure that there was not an imbalance in the positioning of Green Freeports in one region.

**14.8.** The options available to the Council noting that, until the prospectus was published, there remained unknown factors:

- To progress an application for Orkney to become a Green Freeport.
- To decline to submit an application in the bid process for Orkney to become a Green Freeport.

The Committee resolved to **recommend to the Council**:

**14.9.** That the Corporate Director for Enterprise and Sustainable Regeneration should commission the preparation of a draft application for the establishment of a Green Freeport in Orkney.

**14.10.** That, should Government deadlines for the submission of bids allow, the draft application for the establishment of a Green Freeport in Orkney be reported to the Policy and Resources Committee for consideration prior to submission.

**14.11.** That, should Government deadlines necessitate that a submission required to be made in the pre-election period or immediately after the Local Government election scheduled for 5 May 2022, powers be delegated to the Chief Executive to submit the application for establishment of a Green Freeport in Orkney.

Councillor Rachael A King left the meeting during discussion of this item.

## **15. Human Resources Sub-committee**

After consideration of the draft Minute of the Meeting of the Human Resources Sub-committee held on 1 February 2022, copies of which had been circulated, the Committee:

Resolved:

**15.1.** On the motion of Councillor W Leslie Manson, seconded by Councillor James W Stockan, to approve the Minute of the Meeting of the Human Resources Sub-committee held on 1 February 2022 as a true record.

The Committee resolved to **recommend to the Council**:

**15.2.** That the recommendation at paragraph 2.2 of the Minute of the Meeting of the Human Resources Sub-committee held on 1 February 2022, attached as Appendix 11 to this Minute, be approved.

## **16. Police and Fire Sub-committee**

After consideration of the draft Minute of the Meeting of the Police and Fire Sub-committee held on 22 February 2022, copies of which had been circulated, the Committee:

Resolved, on the motion of Councillor Andrew Drever, seconded by Councillor David Dawson, to approve the Minute of the Meeting of the Police and Fire Sub-committee held on 22 February 2022, attached as Appendix 12 to this Minute, as a true record.

## **17. Exclusion of Public**

On the motion of Councillor James W Stockan, seconded by Councillor W Leslie Manson, the Committee resolved that the public be excluded for the remainder of the meeting, as the business to be considered involved the disclosure of exempt information of the classes described in the relevant paragraphs of Part 1 of Schedule 7A of the Local Government (Scotland) Act 1973 as amended.

## **18. Proposed New Care Facility, Kirkwall**

Under section 50A(4) of the Local Government (Scotland) Act 1973, the public had been excluded from the meeting for this item on the grounds that it involved the disclosure of exempt information as defined in paragraphs 8 and 9 of Part 1 of Schedule 7A of the Act.

After consideration of a joint report by the Chief Officer/Corporate Director, Orkney Health and Care and the Corporate Director for Neighbourhood Services and Infrastructure, copies of which had been circulated, and after hearing a report from the Capital Programme Manager, the Committee:

Noted:

**18.1.** That, on 16 February 2021, when considering anticipated increases to the capital costs associated with the new replacement care facility in Kirkwall, as well as the anticipated programme timeframe, the Policy and Resources Committee recommended:

- That, the existing provision within the General Fund capital programme in respect of the proposed new Kirkwall care facility be increased by £1,180,000, from £12,270,000 to £13,450,000.
- That, the total cost of the proposed new Kirkwall care facility be funded by General Fund borrowing of £13,450,000.
- That, to assist with affordability of the current five-year capital programme for 2020 to 2025, powers be delegated to the Head of Finance to apply a contribution of £8,070,000 from the Strategic Reserve Fund to fund projects on the General Fund capital programme.
- That, the revised project programme, detailed in Appendix 5 to the Minute, be approved, namely construction of the proposed new Kirkwall care facility anticipated to begin in Autumn 2021, with delivery anticipated in Winter 2023.

**18.2.** That discussions had taken place with the Scottish Government regarding eligibility for grant funding in respect of infrastructure works at Soulisquoy.

The Committee resolved to **recommend to the Council:**

**18.3.** That the existing provision within the General Fund capital programme in respect of the new Kirkwall care facility be increased.

**18.4.** That the total cost of the new Kirkwall care facility be funded by General Fund borrowing and grant receipts.

**18.5.** That, should the grant funding noted at paragraph 18.2 above not be forthcoming, powers be delegated to the Head of Finance to increase the borrowing on the new Kirkwall care facility to fund the works associated with the Soulisquoy infrastructure part of the project.

**The above constitutes the summary of the Minute in terms of the Local Government (Scotland) Act 1973 section 50C(2) as amended by the Local Government (Access to Information) Act 1985.**

## **19. Orkney's Community Wind Farm Project – Project Progression**

Councillor J Harvey Johnston declared a non-financial interest in this item, in that a close family member was part of the Strategic Projects Team, and was not present during discussion thereof.

Councillor Duncan A Tullock declared a non-financial interest in this item, in that one of the sites was owned by a close family member, and left the meeting at this point.

Under section 50A(4) of the Local Government (Scotland) Act 1973, the public had been excluded from the meeting for this item on the grounds that it involved the disclosure of exempt information as defined in paragraphs 6, 8 and 9 of Part 1 of Schedule 7A of the Act.

After consideration of a report by the Corporate Director for Enterprise and Sustainable Regeneration, copies of which had been circulated, and after hearing a report from the Strategic Projects Director, the Committee:



Resolved to **recommend to the Council** what action should be taken with regard to the next stage in progressing projects forming Orkney's Community Wind Farm.

**The above constitutes the summary of the Minute in terms of the Local Government (Scotland) Act 1973 section 50C(2) as amended by the Local Government (Access to Information) Act 1985.**

Councillor Rachael A King rejoined the meeting at this point.

## **20. Orkney's Community Wind Farm Project**

### **Contracts for Difference Auction**

Councillor J Harvey Johnston declared a non-financial interest in this item, in that a close family member was part of the Strategic Projects Team, and was not present during discussion thereof.

Councillor Duncan A Tullock had previously declared a non-financial interest in this item, in that one of the sites was owned by a close family member, and had left the meeting before consideration of Item 19 above.

Under section 50A(4) of the Local Government (Scotland) Act 1973, the public had been excluded from the meeting for this item on the grounds that it involved the disclosure of exempt information as defined in paragraphs 6, 8 and 9 of Part 1 of Schedule 7A of the Act.

After consideration of a report by the Corporate Director for Enterprise and Sustainable Regeneration, copies of which had been circulated, and after hearing a report from the Strategic Projects Director, the Committee:

Resolved to **recommend to the Council** what action should be taken with regard to participation in the Contracts for Difference auction.

**The above constitutes the summary of the Minute in terms of the Local Government (Scotland) Act 1973 section 50C(2) as amended by the Local Government (Access to Information) Act 1985.**

## **21. Orkney's Community Wind Farm Project – Corporate Structure**

Councillor J Harvey Johnston declared a non-financial interest in this item, in that a close family member was part of the Strategic Projects Team, and was not present during discussion thereof.

Councillor Duncan A Tullock had previously declared a non-financial interest in this item, in that one of the sites was owned by a close family member, and had left the meeting before consideration of Item 19 above.

Under section 50A(4) of the Local Government (Scotland) Act 1973, the public had been excluded from the meeting for this item on the grounds that it involved the disclosure of exempt information as defined in paragraphs 6, 8 and 9 of Part 1 of Schedule 7A of the Act.

After consideration of a report by the Corporate Director for Enterprise and Sustainable Regeneration, copies of which had been circulated, the Committee:

Resolved to **recommend to the Council** what action should be taken with regard to the corporate structure for Orkney's Community Wind Farm Project.

**The above constitutes the summary of the Minute in terms of the Local Government (Scotland) Act 1973 section 50C(2) as amended by the Local Government (Access to Information) Act 1985.**

Councillor J Harvey Johnston rejoined the meeting at this point.

## **22. Asset Management Sub-committee**

Under section 50A(4) of the Local Government (Scotland) Act 1973, the public had been excluded from the meeting for this item on the grounds that it involved the disclosure of exempt information as defined in paragraphs 2, 6, 8 and 9 of Part 1 of Schedule 7A of the Act.

After consideration of the draft Minute of the Meeting of the Asset Management Sub-committee held on 1 February 2022, copies of which had been circulated, the Committee:

Resolved, on the motion of Councillor W Leslie Manson, seconded by Councillor Robin W Crichton, to approve the Minute of the Meeting of the Asset Management Sub-committee held on 1 February 2022, attached as Appendix 13 to this Minute, as a true record.

### **23. Pension Fund Sub-committee, together with Pension Board**

After consideration of the draft Minute of the Meeting of the Pension Fund Sub-committee, together with the Pension Board, held on 23 February 2022, copies of which had been circulated, the Committee:

Resolved, on the motion of Councillor W Leslie Manson, seconded by Councillor James W Stockan, to approve the Minute of the Meeting of the Pension Fund Sub-committee, together with the Pension Board, held on 23 February 2022, attached as Appendix 14 to this Minute, as a true record.

### **24. Investments Sub-committee**

After consideration of the draft Minute of the Meeting of the Investments Sub-committee held on 24 February 2022, copies of which had been circulated, the Committee:

Resolved, on the motion of Councillor W Leslie Manson, seconded by Councillor James W Stockan, to approve the Minute of the Meeting of the Investments Sub-committee held on 24 February 2022, attached as Appendix 15 to this Minute, as a true record.

### **25. Conclusion of Meeting**

At 15:48 the Chair declared the meeting concluded.

Signed: James W Stockan.

**Treasury Management Strategy  
Statement  
and Annual Investment Strategy**

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Orkney Islands Council  
2022/2023

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# 1. Introduction

## 1.1. Background

The Council is required to operate a balanced budget, which broadly means that cash raised during the year will meet cash expenditure. Part of the treasury management operation is to ensure that this cash flow is adequately planned, with cash being available when it is needed. Surplus monies are invested in low-risk counterparties or instruments commensurate with the Council's low risk appetite, providing adequate liquidity initially before considering investment return.

The second main function of the treasury management service is the funding of the Council's capital plans. These capital plans provide a guide to the borrowing need of the Council, essentially the longer-term cash flow planning, to ensure that the Council can meet its capital spending obligations. This management of longer-term cash may involve arranging long or short-term loans or using longer-term cash flow surpluses. On occasion, when it is prudent and economic, any debt previously drawn may be restructured to meet Council risk or cost objectives.

The contribution the treasury management function makes to the authority is critical, as the balance of debt and investment operations ensure liquidity or the ability to meet spending commitments as they fall due, either on day-to-day revenue or for larger capital projects. The treasury operations will see a balance of the interest costs of debt and the investment income arising from cash deposits affecting the available budget. Since cash balances generally result from reserves and balances, it is paramount to ensure adequate security of the sums invested, as a loss of principal will in effect result in a loss to the General Fund Balance.

Whilst any commercial initiatives or loans to third parties will impact on the treasury function, these activities are generally classed as non-treasury activities, arising mainly from investing activities of the Strategic Reserve Fund, and are separate from the day-to-day treasury management activities.

CIPFA defines treasury management as:

*“The management of the local authority’s borrowing, investments and cash flows, including its banking, money market and capital market transactions; the effective control of the risks associated with those activities; and the pursuit of optimum performance consistent with those risks.”*

## 1.2. Reporting requirements

### 1.2.1 Capital Strategy

The CIPFA 2021 Prudential and Treasury Management Codes require all local authorities to prepare a capital strategy report which will provide the following:

- a high-level long-term overview of how capital expenditure, capital financing and treasury management activity contribute to the provision of services
- an overview of how the associated risk is managed
- the implications for future financial sustainability



The aim of this capital strategy is to ensure that all elected members on the full council fully understand the overall long-term policy objectives and resulting capital strategy requirements, governance procedures and risk appetite.

### **1.2.2 Treasury Management reporting**

The Council is currently required to receive and approve, as a minimum, three main treasury reports each year, which incorporate a variety of policies, estimates and actuals.

- a. Prudential and treasury indicators and treasury strategy** (this report) - The first, and most important report is forward looking and covers:
  - the capital plans, (including prudential indicators).
  - a policy for the statutory repayment of debt, (how residual capital expenditure is charged to revenue over time).
  - the treasury management strategy, (how the investments and borrowings are to be organised), including treasury indicators; and
  - a permitted investment strategy, (the parameters on how investments are to be managed).
- b. A mid-year treasury management report** – This is primarily a progress report and will update members on the capital position, amending prudential indicators as necessary, and whether any policies require revision. In addition, this Council will receive quarterly update reports.
- c. An annual treasury report** – This is a backward-looking review document and provides details of a selection of actual prudential and treasury indicators and actual treasury operations compared to the estimates within the strategy.

### **Scrutiny**

The above reports are required to be adequately scrutinised before being recommended to the Council. This role is undertaken by the Policy and Resources Committee.

### **1.3 Treasury Management Strategy for 2022/23**

The strategy for 2022/23 covers two main areas:

#### **Capital issues**

- the capital expenditure plans and the associated prudential indicators.
- the loans fund repayment policy.

#### **Treasury management issues**

- the current treasury position.
- treasury indicators which limit the treasury risk and activities of the Council.
- prospects for interest rates.
- the borrowing strategy.

- policy on borrowing in advance of need.
- debt rescheduling.
- the investment strategy.
- creditworthiness policy, and
- the policy on use of external service providers.

These elements cover the requirements of the Local Government in Scotland Act 2003, the CIPFA Prudential Code, the CIPFA Treasury Management Code and Scottish Government loans fund repayment regulations and investment regulations.

#### **1.4 Training**

The CIPFA Code requires the responsible officer to ensure that members with responsibility for treasury management receive adequate training in treasury management. This especially applies to members responsible for scrutiny. The members have undertaken taken training during 2022/2022 and further training will be arranged as required.

The training needs of treasury management officers are periodically reviewed.

#### **1.5 Treasury management consultants**

The Council uses Link Group, Treasury solutions as its external treasury management advisors.

The Council recognises that responsibility for treasury management decisions remains with the organisation at all times and will ensure that undue reliance is not placed upon the services of our external service providers. All decisions will be undertaken with regards to all available information, including, but not solely, our treasury advisers.

It also recognises that there is value in employing external providers of treasury management services in order to acquire access to specialist skills and resources. The Council will ensure that the terms of their appointment and the methods by which their value will be assessed are properly agreed, documented and subjected to regular review.

## **2. Capital Prudential Indicators 2022/23 – 2024/25**

The Council's capital expenditure plans are the key driver of treasury management activity. The output of the capital expenditure plans is reflected in the prudential indicators, which are designed to assist members' overview and confirm capital expenditure plans.

### **2.1. Capital expenditure**

This prudential indicator is a summary of the Council's capital expenditure plans, both those agreed previously, and those forming part of this budget cycle. Members are asked to approve the capital expenditure forecasts effective as at 1 April 2022:

<b>Capital expenditure £m</b>	<b>2020/21 Actual</b>	<b>2021/22 Estimate</b>	<b>2022/23 Estimate</b>	<b>2023/24 Estimate</b>	<b>2024/25 Estimate</b>
Non-HRA	14.099	12.516	28.701	17.079	5.676
HRA	2.359	2.693	5.681	0.656	0.000
<b>Total</b>	<b>16.458</b>	<b>15.209</b>	<b>34.382</b>	<b>17.735</b>	<b>5.676</b>

Other long-term liabilities - the above financing need excludes other long-term liabilities, such as PFI and leasing arrangements that already include borrowing instruments.

The table below summarises the above capital expenditure plans and how these plans are being financed by capital or revenue resources. Any shortfall of resources results in a funding borrowing need.

<b>Financing of capital expenditure £m</b>	<b>2020/21 Actual</b>	<b>2021/22 Estimate</b>	<b>2022/23 Estimate</b>	<b>2023/24 Estimate</b>	<b>2024/25 Estimate</b>
Capital receipts	1.167	0.150	0.150	0.150	0.150
Capital grants	6.886	9.023	9.260	5.000	5.000
Capital reserves	0.593	1.814	6.448	1.481	0.000
Revenue	0.199	0.849	1.009	0.599	0.569
<b>Net financing need for the year</b>	<b>8.845</b>	<b>11.836</b>	<b>16.867</b>	<b>7.230</b>	<b>5.719</b>

## **2.2. The Council's borrowing need (the Capital Financing Requirement)**

The second prudential indicator is the Council's Capital Financing Requirement (CFR). The CFR is simply the total historic outstanding capital expenditure which has not yet been paid for from either revenue or capital resources. It is essentially a measure of the Council's indebtedness and so its underlying borrowing need. Any capital expenditure above, which has not immediately been paid for through a revenue or capital resource, will increase the CFR.

The CFR does not increase indefinitely, as prudent annual repayments from revenue need to be made which reflect the useful life of capital assets financed by borrowing. From 1.4.16, authorities may choose whether to use scheduled debt amortisation, (loans pool charges), or another suitable method of calculation in order to repay borrowing.

The CFR includes any other long-term liabilities (e.g., PFI schemes, finance leases). Whilst these increase the CFR, and therefore the Council's borrowing requirement, these types of schemes include a borrowing facility by the PFI, PPP lease provider and so the Council is not required to separately borrow for these schemes. The Council currently has no such schemes within the CFR.

The Council is asked to approve the CFR projections below:

£m	2020/21 Actual	2021/22 Estimate	2022/23 Estimate	2023/24 Estimate	2024/25 Estimate
<b>Capital Financing Requirement</b>					
CFR – non housing	42.095	42.299	55.538	63.090	60.432
CFR – housing	9.737	10.862	10.401	10.596	10.203
<b>Total CFR</b>	<b>51.832</b>	<b>53.161</b>	<b>65.939</b>	<b>73.686</b>	<b>70.635</b>
<b>Movement in CFR</b>	<b>1.276</b>	<b>1.329</b>	<b>12.778</b>	<b>7.747</b>	<b>(3.051)</b>

<b>Movement in CFR represented by</b>					
Net financing need for the year (above)	7.613	3.373	14.930	10.505	(0.043)
Less loan fund repayments and other financing movements	(6.337)	(2.044)	(2.152)	(2.758)	(3.008)
<b>Movement in CFR</b>	<b>1.276</b>	<b>1.329</b>	<b>12.778</b>	<b>7.747</b>	<b>(3.051)</b>

### 2.3. Core funds and expected investment balances

The application of resources (capital receipts, reserves etc.) to either finance capital expenditure or other budget decisions to support the revenue budget will have an ongoing impact on investments unless resources are supplemented each year from new sources (asset sales etc.). Detailed below are estimates of the year-end balances for each resource and anticipated day-to-day cash flow balances.

Year End Resources £m	2020/21 Actual	2021/22 Estimate	2022/23 Estimate	2023/24 Estimate	2024/25 Estimate
Strategic Reserve Fund	233.717	245.135	246.913	251.178	259.639
Other Fund balances / reserves	35.915	35.900	35.900	35.900	35.900
Capital receipts	2.539	2.500	2.500	2.500	2.500

<b>Year End Resources £m</b>	<b>2020/21 Actual</b>	<b>2021/22 Estimate</b>	<b>2022/23 Estimate</b>	<b>2023/24 Estimate</b>	<b>2024/25 Estimate</b>
Provisions	31.004	32.585	33.954	34.973	36.022
Other	10.742	10.700	10.700	10.700	10.700
<b>Total core funds</b>	<b>313.917</b>	<b>326.820</b>	<b>329.967</b>	<b>335.251</b>	<b>344.761</b>
Working capital*	(5.119)	(5.200)	(5.200)	(5.200)	(5.200)
Under/over borrowing**	(16.718)	(18.076)	(20.883)	(18.659)	(15.637)
<b>Expected investments</b>	<b>292.080</b>	<b>303.544</b>	<b>303.884</b>	<b>311.392</b>	<b>323.924</b>

\*Working capital balances shown are estimated year-end; these may be higher mid-year

#### **2.4. Statutory repayment of loans fund advances**

The Council is required to set out its policy for the statutory repayment of loans fund advances prior to the start of the financial year. The repayment of loans fund advances ensures that the Council makes a prudent provision each year to pay off an element of the accumulated loans fund advances made in previous financial years.

A variety of options are provided to Councils so long as a prudent provision is made each year. The Council is recommended to approve the following policy on the repayment of loans fund advances for 2022/23:

For all loan fund advances, the policy will be to maintain the practice of previous years and apply the Asset Method, with all loans fund advances being repaid in equal instalments of principal with reference to the life of an asset.

### **3. Borrowing**

The capital expenditure plans set out in Section 2 provide details of the service activity of the Council. The treasury management function ensures that the Council's cash is organised in accordance with the relevant professional codes, so that sufficient cash is available to meet this service activity and the Council's capital strategy. This will involve both the organisation of the cash flow and, where capital plans require, the organisation of appropriate borrowing facilities. The strategy covers the relevant treasury / prudential indicators, the current and projected debt positions and the annual investment strategy.

### 3.1. Current portfolio position

The overall treasury management portfolio as at 31 March 2021 and for the position as at 31 December 2021 are shown below for both borrowing and investments, including the Strategic Reserve Fund investments managed in-house and externally.

<b>TREASURY PORTFOLIO</b>				
	actual	actual	current	current
	<b>31.3.21</b>	<b>31.3.21</b>	<b>31.12.21</b>	<b>31.12.21</b>
<b>Treasury investments</b>	£000	%	£000	%
banks	19,682	6%	13,986	4%
building societies - unrated	0	0%	0	0%
building societies - rated	0	0%	0	0%
local authorities	5,000	2%	3,000	1%
DMADF (H.M.Treasury)	0	0%	0	0%
money market funds	4,300	1%	3,900	1%
certificates of deposit	6,000	2%	9,000	3%
<b>Total managed in house</b>	<b>34,982</b>	<b>11%</b>	<b>29,886</b>	<b>9%</b>
property investments	19,800	6%	19,800	6%
local investments	8,736	3%	8,736	3%
<b>Strategic Reserve Fund managed in house</b>	<b>28,536</b>	<b>9%</b>	<b>28,536</b>	<b>8%</b>
bond funds	55,212	17%	46,792	14%
diversified growth fund	44,061	14%	46,237	14%
equity fund	106,361	33%	112,453	33%
credit strategies fund	22,167	7%	22,879	7%
property funds	23,046	7%	26,115	8%
global private debt fund	7,683	2%	8,964	3%
alternative income fund	0	0%	15,239	5%
<b>Strategic Reserve Fund managed externally</b>	<b>258,530</b>	<b>80%</b>	<b>278,679</b>	<b>83%</b>
<b>Total treasury investments</b>	<b>322,048</b>	<b>100%</b>	<b>337,101</b>	<b>100%</b>

The Council's forward projections for borrowing are summarised below. The table shows the actual external debt, against the underlying capital borrowing need, (the Capital Financing Requirement - CFR), highlighting any over or under borrowing.

£m	2020/21	2021/22	2022/23	2023/24	2024/25
	Actual	Estimate	Estimate	Estimate	Estimate
<b>External Debt</b>					
Debt at 1 April	30.143	35.114	35.085	45.056	55.027
Expected change in Debt	(0.029)	(0.029)	9.971	9.971	(0.029)
Other long-term liabilities (OLTL)	0.000	0.000	0.000	0.000	0.00
Expected change in OLTL	0.000	0.000	0.000	0.000	0.000
Actual gross debt at 31 March	<b>35.114</b>	<b>35.085</b>	<b>45.056</b>	<b>55.027</b>	<b>54.998</b>
The Capital Financing Requirement	<b>51.832</b>	<b>53.161</b>	<b>65.939</b>	<b>73.686</b>	<b>70.635</b>
Under / (over) borrowing	<b>16.718</b>	<b>18.076</b>	<b>20.883</b>	<b>18.659</b>	<b>15.637</b>

Within the range of prudential indicators there are a number of key indicators to ensure that the Council operates its activities within well-defined limits. One of these is that the Council needs to ensure that its gross debt does not, except in the short term, exceed the total of the CFR in the preceding year plus the estimates of any additional CFR for 2022/23 and the following two financial years. This allows some flexibility for limited early borrowing for future years but ensures that borrowing is not undertaken for revenue or speculative purposes.

The Head of Finance reports that the Council complied with this prudential indicator in the current year and does not envisage difficulties for the future. This view takes into account current commitments, existing plans, and the proposals in this budget report.

### **3.2. Treasury Indicators: limits to borrowing activity**

**The operational boundary.** This is the limit beyond which external debt is not normally expected to exceed. In most cases, this would be a similar figure to the CFR, but may be lower or higher depending on the levels of actual debt and the ability to fund under-borrowing by other cash resources.

Operational boundary £m	2021/22 Estimate	2022/23 Estimate	2023/24 Estimate	2024/25 Estimate
Debt	65.000	65.000	70.000	70.000
Other long-term liabilities	0.000	0.000	0.000	0.000
Total	65.000	65.000	70.000	70.000

**The authorised limit for external debt.** This is a key prudential indicator and represents a control on the maximum level of borrowing. This represents a legal limit beyond which external debt is prohibited, and this limit needs to be set or revised by the full Council. It reflects the level of external debt which, while not desired, could be afforded in the short term, but is not sustainable in the longer term.

- a) The authorised limits for external debt for the current year and two subsequent years are the legislative limits determined under Regulation 6(1) of the Local Authority (Capital Finance and Accounting) (Scotland) Regulations 2016.
- b) The Council is asked to approve the following authorised limit:

Authorised limit £m	2021/22 Estimate	2022/23 Estimate	2023/24 Estimate	2024/25 Estimate
Debt	75.000	75.000	85.000	85.000
Other long-term liabilities	0.000	0.000	0.000	0.000
Total	75.000	75.000	85.000	85.000

### 3.3. Prospects for interest rates

The Council has appointed Link Group as its treasury advisor and part of their service is to assist the Council to formulate a view on interest rates. Link provided the following forecasts on 7 February 2022. These are forecasts for certainty rates, gilt yields plus 80bps:



Link Group Interest Rate View 7.2.22													
	Mar-22	Jun-22	Sep-22	Dec-22	Mar-23	Jun-23	Sep-23	Dec-23	Mar-24	Jun-24	Sep-24	Dec-24	Mar-25
BANK RATE	0.75	1.00	1.00	1.25	1.25	1.25	1.25	1.25	1.25	1.25	1.25	1.25	1.25
3 month av. earnings	0.80	1.00	1.00	1.20	1.20	1.20	1.20	1.20	1.20	1.20	1.20	1.20	1.20
6 month av. earnings	1.00	1.10	1.20	1.30	1.30	1.30	1.30	1.30	1.30	1.30	1.30	1.30	1.30
12 month av. earnings	1.40	1.50	1.60	1.70	1.70	1.60	1.60	1.50	1.40	1.40	1.40	1.40	1.40
5 yr PWLB	2.20	2.30	2.30	2.30	2.30	2.30	2.30	2.30	2.30	2.30	2.30	2.30	2.30
10 yr PWLB	2.30	2.40	2.40	2.40	2.40	2.40	2.40	2.40	2.40	2.40	2.40	2.40	2.40
25 yr PWLB	2.40	2.50	2.50	2.60	2.60	2.60	2.60	2.60	2.60	2.60	2.60	2.60	2.60
50 yr PWLB	2.20	2.30	2.30	2.40	2.40	2.40	2.40	2.40	2.40	2.40	2.40	2.40	2.40

Additional notes by Link on this forecast table:

- LIBOR and LIBID rates ceased at the end of 2021. In a continuation of our previous forecasts, our money market yield forecasts are based on expected average earnings by local authorities for 3 to 12 months.
- Our forecasts for average earnings are averages i.e., rates offered by individual banks may differ significantly from these averages, reflecting their different needs for borrowing short term cash at any one point in time.

Over the last two years the coronavirus outbreak has done huge economic damage to the UK and to economies around the world. After the Bank of England took emergency action in March 2020 to cut Bank Rate to 0.10%, it left Bank Rate unchanged at its subsequent meetings until raising it to 0.25% at its meeting on 1 December 2021 and then to 0.50% at its meeting of 4 February 2022.

As shown in the forecast table above, the forecast for Bank Rate now includes a further three increases of 0.25%, in March, May and November 2022 to end at 1.25%.

### Significant risks to the forecasts

- Mutations of the virus render current vaccines ineffective, and tweaked vaccines to combat these mutations are delayed, or cannot be administered fast enough to prevent further lockdowns.
- Labour and supply shortages prove more enduring and disruptive and depress economic activity.
- The Monetary Policy Committee acts too quickly, or too far, over the next three years to raise Bank Rate and causes UK economic growth, and increases in inflation, to be weaker than we currently anticipate.
- The Monetary Policy Committee tightens monetary policy too late to ward off building inflationary pressures.
- The Government acts too quickly to cut expenditure to balance the national budget.
- UK / EU trade arrangements – if there was a major impact on trade flows and financial services due to complications or lack of co-operation in sorting out significant remaining issues.
- Longer term US treasury yields rise strongly and pull gilt yields up higher than forecast.

- Major stock markets e.g., in the US, become increasingly judged as being over-valued and susceptible to major price corrections. Central banks become increasingly exposed to the “moral hazard” risks of having to buy shares and corporate bonds to reduce the impact of major financial market selloffs on the general economy.
- Geopolitical risks, for example in Ukraine, Iran, North Korea, but also in Europe and Middle Eastern countries; on-going global power influence struggles between Russia/China/US. These could lead to increasing safe-haven flows.

### **The balance of risks to the UK economy:**

- The overall balance of risks to economic growth in the UK is now to the downside, including risks from Covid and its variants - both domestically and their potential effects worldwide.

### **Forecasts for Bank Rate**

The Monetary Policy Committee is now very concerned at the way that forecasts for inflation have had to be repeatedly increased within a matter of just a few months. Combating this rising tide of inflation is now its number one priority and the 5-4 vote marginally approving only a 0.25% increase on 4th February rather than a 0.50% increase, indicates it is now determined to push up Bank Rate quickly. A further increase of 0.25% is therefore probable for March, and again in May, followed possibly by a final one in November. However, data between now and November could shift these timings or add to or subtract from the number of increases.

- We do not know whether there will be further mutations of Covid and how severe they may be, nor how rapidly scientific advances may be made in combating them.
- The economy was running out of steam during the second half of 2021 and Omicron will mean that economic growth in quarter 1 of 2022 is likely to be flat, though on the rise towards the end of the quarter as the economy recovers. However, 54% energy cap cost increases from April, together with 1.25% extra employee national insurance, food inflation around 5% and council tax likely to rise in the region of 5% too – these increases are going to hit lower income families hard despite some limited assistance from the Chancellor to postpone the full impact of rising energy costs.
- Consumers are estimated to be sitting on over £160bn of excess savings left over from the pandemic so that will cushion some of the impact of the above increases. But most of those holdings are held by more affluent people whereas poorer people already spend nearly all their income before these increases hit and have few financial reserves.
- These increases are already highly disinflationary; inflation will also be on a gradual path down after April so that raises a question as to whether the MPC may shift into protecting economic growth by November, i.e., it is more debatable as to whether they will deliver another increase then.
- The BIG ISSUE – will the current spike in inflation lead to a second-round effect in terms of labour demanding higher wages, (and/or lots of people getting higher wages by changing job)?

- If the labour market remains very tight during 2022, then wage inflation poses a greater threat to overall inflation being higher for longer, and the MPC may then feel it needs to take more action.
- If the UK were to invoke article 16 of the Brexit deal over the dislocation in trading arrangements with Northern Ireland, this would have the potential to end up in a no-deal Brexit.

In summary, with the high level of uncertainty prevailing on several different fronts, we expect to have to revise our forecasts again - in line with whatever the new news is.

### **Forecasts for PWLB rates and gilt and treasury yields**

**Gilt yields.** Since the start of 2021, we have seen a lot of volatility in gilt yields, and hence PWLB rates. Our forecasts show little overall increase in gilt yields during the forecast period, to March 2025, but there will doubtless be a lot of unpredictable volatility during this forecast period.

While monetary policy in the UK will have a major impact on gilt yields, there is also a need to consider the potential impact that rising treasury yields in America could have on gilt yields. **As an average since 2011, there has been a 75% correlation between movements in US 10-year treasury yields and UK 10-year gilt yields. This is a significant UPWARD RISK exposure to our forecasts for medium to longer term PWLB rates. However, gilt yields and treasury yields do not always move in unison.**

**US treasury yields.** During the first part of 2021, US President Biden's, and the Democratic party's, determination to push through a \$1.9trn (equivalent to 8.8% of GDP) fiscal boost for the US economy as a recovery package from the Covid pandemic was what unsettled financial markets. This was in addition to the \$900bn support package previously passed in December 2020. Financial markets were alarmed that all this stimulus was happening at a time when:

- A fast vaccination programme roll-out had enabled a rapid opening up of the economy during 2021.
- The economy was growing strongly during the first half of 2021 although it has weakened during the second half.
- It started from a position of little spare capacity due to less severe lockdown measures than in many other countries.
- It started from a position of little spare capacity due to less severe lockdown measures than in many other countries.
- And the Fed was still providing substantial stimulus through monthly QE purchases during 2021

It was not much of a surprise that a combination of these factors would eventually cause an excess of demand in the economy which generated strong inflationary pressures. This has eventually been recognised by the Fed at its recent December meeting with an aggressive response to damp inflation down during 2022 and 2023.

- At its 3rd November Fed meeting, the Fed decided to make a start on tapering . its \$120bn per month of QE purchases so that they ended next June. However, at its 15th December meeting it doubled the pace of tapering so that they will end all purchases in February. These purchases are currently acting as downward pressure on treasury yields and so it would be expected that Treasury yields will rise over the taper period, all other things being equal.
- It is also forecast that it expected there would be three rate rises in 2022 of 0.25% from near zero currently, followed by three in 2023 and two in 2024. This would take rates back above 2% to a neutral level for monetary policy. It also gave up on calling the sharp rise in inflation as being 'transitory'.
- At its 26th January meeting, the Fed became even more hawkish following inflation rising sharply even further. It indicated that rates would begin to rise very soon, i.e., it implied at its March meeting it would increase rates and start to run down its holdings of QE purchases. It also appears likely that the Fed could take action to force longer term treasury yields up by prioritising selling holdings of its longer bonds as yields at this end have been stubbornly low despite rising inflation risks. The low level of longer dated yields is a particular concern for the Fed because it is a key channel through which tighter monetary policy is meant to transmit to broader financial conditions, particularly in the US where long rates are a key driver of household and corporate borrowing costs.

There are also possible **DOWNSIDE RISKS** from the huge sums of cash that the UK populace have saved during the pandemic; when savings accounts earn little interest, it is likely that some of this cash mountain could end up being invested in bonds and so push up demand for bonds and support their prices i.e., this would help to keep their yields down. How this will interplay with the Bank of England eventually getting round to not reinvesting maturing gilts and then later selling gilts, will be interesting to monitor.

There is likely to be **exceptional volatility and unpredictability in respect of gilt yields and PWLB rates** due to the following factors:

- How strongly will changes in gilt yields be correlated to changes in US treasury yields (see below). As the US financial markets are, by far, the biggest financial markets in the world, any upward trend in treasury yields will invariably impact and influence financial markets in other countries. Over 10 years since 2011 there has been an average 75% correlation between movements in US treasury yields and gilt yields. However, from time to time these two yields can diverge. Lack of spare economic capacity and rising inflationary pressures are viewed as being much greater dangers in the US than in the UK. This could mean that central bank rates will end up rising higher in the US than in the UK; the consequent increases in treasury yields could well spill over to cause (lesser) increases in gilt yields. There is, therefore, an upside risk to forecasts for gilt yields due to this correlation. The Link Group forecasts have included a risk of a 75% correlation between the two yields.
- Will the Fed take action to counter increasing treasury yields if they rise beyond a yet unspecified level?
- Would the MPC act to counter increasing gilt yields if they rise beyond a yet unspecified level?

- How strong and enduring will inflationary pressures turn out to be in both the US and the UK and so impact treasury and gilt yields?
- **Will the major western central banks implement their previously stated new average or sustainable level inflation monetary policies when inflation has now burst through all previous forecasts and far exceeded their target levels? Or are they going to effectively revert to their previous approach of prioritising focusing on pushing inflation back down and accepting that economic growth will be very much a secondary priority - until inflation is back down to target levels or below?**
- How well will central banks manage the running down of their stock of QE purchases of their national bonds i.e., without causing a panic reaction in financial markets as happened in the “taper tantrums” in the US in 2013?
- Will exceptional volatility be focused on the short or long-end of the yield curve, or both?
- If Russia were to invade Ukraine, this would be likely to cause short term volatility in financial markets, but it would not be expected to have a significant impact beyond that.

The forecasts are also predicated on an assumption that there is no break-up of the Eurozone or EU within the forecasting period, despite the major challenges that are looming up, and that there are no major ructions in international relations, especially between the US and Russia, China / North Korea and Iran, which have a major impact on international trade and world GDP growth.

#### **The balance of risks to medium to long term PWLB rates:**

- There is a balance of upside risks to forecasts for medium to long term PWLB rates.

#### **A new era for local authority investing – a fundamental shift in central bank monetary policy**

One of the key results of the pandemic has been a fundamental rethinking and shift in monetary policy by major central banks like the Fed, the Bank of England and the ECB, to tolerate a higher level of inflation than in the previous two decades when inflation was the prime target to bear down on so as to stop it going above a target rate. There is now also a greater emphasis on other targets for monetary policy than just inflation, especially on ‘achieving broad and inclusive “maximum” employment in its entirety’ in the US, before consideration would be given to increasing rates.

- The Fed in America has gone furthest in adopting a monetary policy based on a clear goal of allowing the inflation target to be symmetrical, (rather than a ceiling to keep under), so that inflation averages out the dips down and surges above the target rate, over an unspecified period of time.
- The Bank of England has also amended its target for monetary policy so that inflation should be ‘sustainably over 2%’ before starting on raising Bank Rate and the ECB now has a similar policy.

- **For local authorities, this means that investment interest rates and very short term PWLB rates will not be rising as high as in previous decades when the economy recovers from a downturn and the recovery eventually runs out of spare capacity to fuel continuing expansion.**
- Labour market liberalisation since the 1970s has helped to break the wage-price spirals that fuelled high levels of inflation and has now set inflation on a lower path which makes this shift in monetary policy practicable. In addition, recent changes in flexible employment practices, the rise of the gig economy and technological changes, will all help to lower inflationary pressures once economies recover from the various disruptions caused by the pandemic.
- Governments will also be concerned to see interest rates stay lower as every rise in central rates will add to the cost of vastly expanded levels of national debt; (in the UK this is £21bn for each 1% rise in rates). On the other hand, higher levels of inflation will help to erode the real value of total public debt.

### Investment and borrowing rates

- **Investment returns** have started improving in the second half of 21/22 and are expected to improve further during 22/23 as the MPC progressively increases Bank Rate.
- **Borrowing interest rates** fell to historically very low rates as a result of the COVID crisis and the quantitative easing operations of the Bank of England and still remain at historically low levels. The policy of avoiding new borrowing by running down spare cash balances has served local authorities well over the last few years.
- On 25.11.20, the Chancellor announced the conclusion to the review of margins over gilt yields for PWLB rates which had been increased by 100 bps in October 2019. The standard and certainty margins were reduced by 100 bps but a prohibition was introduced to deny access to borrowing from the PWLB for any local authority which had purchase of assets for yield in its three-year capital programme. The current margins over gilt yields are as follows:
  - **PWLB Standard Rate** is gilt plus 100 basis points (G+100bps).
  - **PWLB Certainty Rate** is gilt plus 80 basis points (G+80bps).
  - **PWLB HRA Standard Rate** is gilt plus 100 basis points (G+100bps).
  - **PWLB HRA Certainty Rate** is gilt plus 80bps (G+80bps).
  - **Local Infrastructure Rate** is gilt plus 60bps (G+60bps).
- **Borrowing for capital expenditure.** Our long-term (beyond 10 years) forecast for Bank Rate is 2.00%. As nearly all PWLB certainty rates are now above this level, borrowing strategy will need to be reviewed, especially as the maturity curve has flattened out considerably. Better value can be obtained at the very short and at the longer end of the curve and longer-term rates are still at historically low levels. Temporary borrowing rates are likely, however, to remain near Bank Rate and may also prove attractive as part of a balanced debt portfolio. In addition, there are also some cheap alternative sources of long-term borrowing if a client is seeking to avoid a “cost of carry” but also wishes to mitigate future re-financing risk.

- While this authority will not be able to avoid borrowing to finance new capital expenditure, to replace maturing debt and the rundown of reserves, there will be a *cost of carry*, (the difference between higher borrowing costs and lower investment returns), to any new borrowing that causes a temporary increase in cash balances.

### 3.4. Borrowing strategy

The Council is currently maintaining an under-borrowed position. This means that the capital borrowing need (the Capital Financing Requirement), has not been fully funded with loan debt as cash supporting the Council's reserves, balances and cash flow has been used as a temporary measure. This strategy is prudent as investment returns are low and counterparty risk is still an issue that needs to be considered.

Against this background and the risks within the economic forecast, caution will be adopted with the 2022/23 treasury operations. The Head of Finance will monitor interest rates in financial markets and adopt a pragmatic approach to changing circumstances:

- *if it was felt that there was a significant risk of a sharp FALL in borrowing rates*, then borrowing will be postponed.
- *if it was felt that there was a significant risk of a much sharper RISE in borrowing rates than that currently forecast*, perhaps arising from an acceleration in the rate of increase in central rates in the USA and UK, an increase in world economic activity, or a sudden increase in inflation risks, then the portfolio position will be re-appraised. Most likely, fixed rate funding will be drawn whilst interest rates are lower than they are projected to be in the next few years.

Any decisions will be reported to the appropriate decision-making body at the next available opportunity.

The Council traditionally relied on its ability to finance its capital spending programmes through the use of internal borrowings. However, in approving the development of a major Schools Investment Programme in 2008 at an estimated capital cost of £58 million, and thereafter a significant Social Housing build programme, it was acknowledged that this approach would need to change. In particular, as interest rates were originally predicted to start to increase in 2010, the Council increased external borrowings to £40M to fund at least part of this sizable programme of capital works. At that time, this was regarded as an effective way for the Council to manage the risk of interest rate movements over the life of the programme, which could otherwise have the potential to adversely impact on the affordability of this programme going forward including future Council budgets. This also applied in the case of the house build programme where any increase in interest rates would impact on the affordability of the overall development, which relies on the ability of housing tenants to support the loan charges in the form of tenant rent increases.

Whilst the subsequent decision of Scottish Government to change the funding structure for the Schools Investment Programme mid 2010 effectively reduced the Council's borrowing requirements for future years, the terms of the borrowings were still regarded as favourable at that time such that the Council was well placed to benefit from savings on loan charges in the longer term.

### **3.5. Policy on borrowing in advance of need**

The Council will not borrow more than or in advance of its needs purely in order to profit from the investment of the extra sums borrowed. Any decision to borrow in advance will be within forward approved Capital Financing Requirement estimates and will be considered carefully to ensure that value for money can be demonstrated and that the Council can ensure the security of such funds.

Borrowing in advance will be made within the constraints that:

- It will be limited to no more than 50% of the expected increase in borrowing need (CFR) over the three-year planning period; and
- The authority would not look to borrow more than 24 months in advance of need.

Risks associated with any borrowing in advance activity will be subject to prior appraisal and subsequent reporting through the mid-year or annual reporting mechanism.

### **3.6. Debt Rescheduling**

Rescheduling of current borrowing in our debt portfolio is unlikely to occur as there is still a very large difference between premature redemption rates and new borrowing rates, even though the general margin of PWLB rates over gilt yields was reduced by 100 bps in November 2020.

If rescheduling was done, it will be reported to the Council, at the earliest meeting following its action.

### **3.7. Municipal Bond Agency**

It is possible that the Municipal Bond Agency will be offering loans to local authorities in the future. The Agency hopes that the borrowing rates will be lower than those offered by the Public Works Loan Board (PWLB). This Authority may make use of this new source of borrowing as and when appropriate.

## **4. Annual Investment Strategy**

### **4.1. Investment policy**

The Council's investment policy implements the requirements of the following:

- Local Government Investments (Scotland) Regulations 2010, (and accompanying Finance Circular 5/2010).
- CIPFA Treasury Management in Public Services Code of Practice and Cross Sectoral Guidance Notes 2021 ("the Code").
- CIPFA Treasury Management Guidance Notes 2021.



The Council's investment priorities will be security first, portfolio liquidity second and then yield, (return). The Council will aim to achieve the optimum return (yield) on its investments commensurate with proper levels of security and liquidity and with the Council's risk appetite. In the current economic climate it is considered appropriate to keep investments short term to cover cash flow needs. However, where appropriate (from an internal as well as external perspective), the Council will also consider the value available in periods up to 12 months with high credit rated financial institutions.

The above regulations and guidance place a high priority on the management of risk. This authority has adopted a prudent approach to managing risk and defines its risk appetite by the following means: -

1. Minimum acceptable **credit criteria** are applied in order to generate a list of highly creditworthy counterparties. This also enables diversification and thus avoidance of concentration risk. The key ratings used to monitor counterparties are the short term and long-term ratings.
2. **Other information:** ratings will not be the sole determinant of the quality of an institution; it is important to continually assess and monitor the financial sector on both a micro and macro basis and in relation to the economic and political environments in which institutions operate. The assessment will also take account of information that reflects the opinion of the markets. To achieve this consideration the Council will engage with its advisors to maintain a monitor on market pricing such as "**credit default swaps**" and overlay that information on top of the credit ratings.
3. **Other information sources** used will include the financial press, share price and other such information pertaining to the banking sector in order to establish the most robust scrutiny process on the suitability of potential investment counterparties.
4. This authority has defined the list of **types of investment instruments** that are permitted investments authorised for use in appendix 5.4. Appendix 5.5 expands on the risks involved in each type of investment and the mitigating controls.
5. **Lending limits**, (amounts and maturity), for each counterparty will be set through applying the matrix table in paragraph 4.2.
6. **Transaction limits** are set for each type of investment in appendix 5.4.
7. This authority will set a limit for the amount of its investments which are invested for **longer than 365 days**, (see paragraph 4.4).
8. Investments will only be placed with counterparties from countries with a specified minimum **sovereign rating**, (see paragraph 4.3).
9. This authority has engaged **external consultants**, (see paragraph 1.5), to provide expert advice on how to optimise an appropriate balance of security, liquidity and yield, given the risk appetite of this authority in the context of the expected level of cash balances and need for liquidity throughout the year.
10. All investments will be denominated in **sterling**.
11. As a result of the change in accounting standards for 2022/23 under **IFRS 9**, this authority will consider the implications of investment instruments which could result in an adverse movement in the value of the amount invested and resultant charges at the end of the year to the General Fund. With much of the Council's investment instruments held in the Strategic Reserve Fund, as part of the

Harbour Fund, it is not anticipated that the impact of IFRS 9 on the General Fund will be significant.

12. As a result of the change in accounting standards for 2022/23 under IFRS 9, this authority will consider the implications of investment instruments which could result in an adverse movement in the value of the amount invested and resultant charges at the end of the year to the General Fund. Orkney Islands Council investments mainly sit on the Strategic Reserve Fund, meaning that the General Fund is largely unaffected by the changes to this accounting standard.
13. Externally managed fund investments are managed by externally appointed fund managers operating within individual mandates as part of an agreed investment strategy which sets both the permitted asset class limit and range. The appointed fund managers are authorised to manage risk within these mandates.

However, this authority will also pursue **value for money** in treasury management and will monitor the yield from investment income against appropriate benchmarks for investment performance, (see paragraph 4.5). Regular monitoring of investment performance will be carried out during the year.

### **Changes in risk management policy from last year**

Following a review of the investment strategy work is ongoing to achieve further diversification away from equity investments, into more illiquid longer-term alternative asset classes including illiquid debt and secured income/finance.

#### **4.2. Creditworthiness policy**

This Council applies the creditworthiness service provided by the Link Group. This service employs a sophisticated modelling approach utilising credit ratings from the three main credit rating agencies - Fitch, Moody's and Standard and Poor's. The credit ratings of counterparties are supplemented with the following overlays:

- credit watches and credit outlooks from credit rating agencies;
- CDS spreads to give early warning of likely changes in credit ratings;
- sovereign ratings to select counterparties from only the most creditworthy countries.

This modelling approach combines credit ratings, credit watches and credit outlooks in a weighted scoring system which is then combined with an overlay of CDS spreads for which the end product is a series of colour coded bands which indicate the relative creditworthiness of counterparties. These colour codes are used by the Council to determine the suggested duration for investments. The Council will therefore use counterparties within the following durational bands ):

- Yellow – 5 years.\*
- Dark pink – 5 years for Ultra short dated bond funds with a credit score of 1.25.
- Light pink – 5 years for Ultra short dated bond funds with a credit score of 1.5.
- Purple – 2 years.
- Blue – 1 year (only applies to nationalised or semi nationalised UK Banks).
- Orange – 1 year.

- Red – 6 months.
- Green – 100 days.
- No colour – not to be used.

The Link creditworthiness service uses a wider array of information than just primary ratings. Furthermore, by using a risk weighted scoring system, it does not give undue preponderance to just one agency's ratings.

Typically the minimum credit ratings criteria the Council use will be a Short Term rating (Fitch or equivalents) of F1 and a Long Term rating of A-. There may be occasions when the counterparty ratings from one rating agency are marginally lower than these ratings but may still be used. In these instances consideration will be given to the whole range of ratings available, or other topical market information, to support their use.

All credit ratings will be monitored on a weekly basis. The Council is alerted to changes to ratings of all three agencies through its use of our creditworthiness service.

- if a downgrade results in the counterparty / investment scheme no longer meeting the Council's minimum criteria, its further use as a new investment will be withdrawn immediately.
- in addition to the use of credit ratings the Council will be advised of information in movements in credit default swap spreads against the iTraxx benchmark and other market data on a daily basis via its Passport website, provided exclusively to it by Link. Extreme market movements may result in downgrade of an institution or removal from the Council's lending list.
- Sole reliance will not be placed on the use of this external service. In addition this Council will also use market data and market information, information on sovereign support for banks and the credit ratings of that supporting government.

Y	Pi1	Pi2	P	B	O	R	G	N/C
1	1.25	1.5	2	3	4	5	6	7
Up to 5yrs	Up to 5yrs	Up to 5yrs	Up to 2yrs	Up to 1yr	Up to 1yr	Up to 6mths	Up to 100days	No Colour

\* Please note: the yellow colour category is for UK Government debt, or its equivalent, money market funds and collateralised deposits where the collateral is UK Government debt –see appendix 5.5.

### Creditworthiness

Significant levels of downgrades to Short- and Long-Term credit ratings have not materialised since the crisis in March 2020. In the main, where they did change, any alterations were limited to Outlooks. However, as economies are beginning to reopen, there have been some instances of previous lowering of Outlooks being reversed.

## CDS prices

Although bank CDS prices, (these are market indicators of credit risk), spiked upwards at the end of March / early April 2020 due to the heightened market uncertainty and ensuing liquidity crisis that affected financial markets, they have returned to more average levels since then. However, sentiment can easily shift, so it will remain important to undertake continual monitoring of all aspects of risk and return in the current circumstances. Link monitor CDS prices as part of their creditworthiness service to local authorities and the Council has access to this information via its Link-provided Passport portal.

### 4.3. Other limits

The council has determined that it will only use approved counterparties from countries with a minimum sovereign credit rating of AA- from Fitch (or equivalent). The list of countries that qualify using this credit criteria as at the date of this report are shown in Appendix 5.6. The list will be added to, or deducted from, by officers should ratings change in accordance with this policy.

### 4.4. Investment strategy

**In-house funds.** Investments will be made with reference to the core balance and cash flow requirements and the outlook for short-term interest rates (i.e. rates for investments up to 12 months). Greater returns are usually obtainable by investing for longer periods. While most cash balances are required in order to manage the ups and downs of cash flow, where cash sums can be identified that could be invested for longer periods, the value to be obtained from longer term investments will be carefully assessed.

- If it is thought that Bank Rate is likely to rise significantly within the time horizon being considered, then consideration will be given to keeping most investments as being short term or variable.
- Conversely, if it is thought that Bank Rate is likely to fall within that time period, consideration will be given to locking in higher rates currently obtainable, for longer periods.

### Investment returns expectations

The current forecast shown in paragraph 3.3, includes a forecast for Bank Rate to reach 1.25% in November 2022.

The suggested budgeted investment earnings rates for returns on investments placed for periods up to about three months during each financial year are as follows:

Average earnings in each year	Now	Previously
2022/23	1.00%	0.50%
2023/24	1.25%	0.75%
2024/25	1.25%	1.00%
2025/26	1.25%	1.25%
Years 6 to 10	1.50%	-
Years 10+	2.00%	2.00%

Against this view the Treasury officers expect for its cash flow generated balances, the Council will seek to utilise its business reserve instant access and notice accounts, money market funds, short-dated deposits (overnight to 100 days) and long-dated deposits (up to 365 days), in order to benefit from the compounding of interest.

**Investment treasury indicator and limit** - total principal funds invested for greater than 365 days. These limits are set with regard to the Council's liquidity requirements, and to reduce the need for early sale of an investment and are based on the availability of funds after each year-end.

The Council is asked to approve the following treasury indicator and limit:

<b>Upper limit for principal sums invested for longer than 365 days</b>			
<b>£m</b>	<b>2022/23</b>	<b>2023/24</b>	<b>2024/25</b>
Principal sums invested for longer than 365 days	£m 75	£m 75	£m 75
Current investments as at 31 December 21 in excess of 1 year maturing in each year	Nil	Nil	Nil

The budgeted investment earnings rates for returns on the Council's strategic reserve fund investments is derived from the approved investment strategy for the portfolio of investments that are managed by appointed external fund managers.

A revised investment strategy was implemented in 2017, introducing a new allocation to Enhanced Yield Debt as an alternative to Government Bonds which should marginally improve investment returns going forward. Since then, a further review has taken place which has resulted in the adoption of an income focused strategy in 2019. Both these changes in strategy are reflected in the forecast for the next three years as follows:

- 2020/2021 5.60%.
- 2021/2022 5.20%.
- 2022/2023 5.20%.

For its cash flow generated balances, the Council will seek to utilise its business reserve instant access and notice accounts, money market funds and short-dated deposits, (overnight to 365 days), in order to benefit from the compounding of interest.

#### 4.5. Investment performance / risk benchmarking

This Council will use an investment benchmark to assess the investment performance of its investment portfolio for both in-house and external investments:

Investment Portfolio	Benchmark	Target Mandate
In-house cash balances	90-day LIBOR	Outperform benchmark
Bonds	UK Corporate Bonds – Market Iboxx Sterling Non-Gilts ex BBB	Benchmark over a rolling 3-year period
Equities	Global Equities - MSCI All Country World Index (NDR)	Benchmark over a rolling 3-year period +1.5% p.a.
Equities – Global Alpha	FTSE All Share (9%), MSCI All County World Index (49%), UK Base Rate (27%), FTSE Act (15%)	Outperform benchmark over a rolling 3-year period
UK Property Fund	MSCI All Balanced Property Fund Index Weighted Average	Outperform benchmark over a rolling 3-year period
Diversified Growth Fund	90-day LIBOR	Benchmark over a rolling 3-year period +3.0% p.a.
High Yield Debt Strategies	90-day LIBOR	Benchmark over a rolling 3-year period +5.0% p.a.
Secured Income Fund	10 Year Gilts	Benchmark over a rolling 3-year period +2.0% p.a.
Global Private Debt Fund	90-day LIBOR	Benchmark over a rolling 3-year period +6.0% p.a.

The Council appreciates that the provision of LIBOR and associated LIBID rates ceased at the end of 2021. It will work with its advisors in determining suitable replacement investment benchmark(s) and will report back to members accordingly.

#### 4.6. End of year investment report

At the end of the financial year, the Council will report on its investment activity as part of its Annual Treasury Report.

#### 4.7. External fund managers

As at 31 March 2022, it is estimated that £226.8m of the Council's funds will be externally managed on a discretionary by externally appointed fund managers.

A review of the investment strategy for the Council's strategic reserve fund was undertaken by the Investments Sub-committee in 2016. While the review concluded that the existing strategy had been effective in adding value, and at the same time preserving the value of the Fund in real terms, it did identify scope to improve the risk and return profile of the fund through the use of specialist pooled funds to diversify away from Equities as an asset class.

In 2018 the Investment Sub-Committee reviewed the investment strategy again and on 28 February 2019 resolved to further diversify into Illiquid Debt and Secured Income by way of direct investment to a pooled fund. It was further resolved that the equity allocation be split on a 50/50 basis between funds held on a growth basis, with a newly appointed Fund Manager, whilst retaining Schroders on a simplified single global equity strategy with the existing value style basis. The Corporate Bonds allocation will be transferred to a specialist passive manager. These diversifications will be matched by a proportionate reduction in growth assets.

The Head of Finance developed an Action Plan, in consultation with Hymans Robertson, to commence the process of implementation of the changes to the investment strategy. Interviews with potential fund managers took place in August and October 2019 after which fund managers were appointed to three new mandates, as follows:

- Baillie Gifford – Global Alpha.
- Barings – Global Private Loan Fund III.
- Blackrock – UK Strategic Alternative Income Fund.

In addition to the above appointments, Legal and General Investment Managers were appointed through a national framework to manage the bond allocation for the Strategic Reserve Fund on a passive basis.

The process to put the new mandates in place commenced in 2019 but has not concluded yet due to Covid-19 related volatility being experienced in the markets.

The Council's external fund manager(s) will comply with the Annual Investment Strategy. The investment management agreement(s) between the Council and the fund manager(s) additionally stipulate guidelines on duration and other limits in order to contain and control risk. The minimum credit criteria to be used by the cash and managed fund manager(s) are set out in Table 2 of Appendix 5.3 on Permitted Investments.

## 5. Appendices

### 5.1. Capital Prudential and Treasury Indicators 2022/23 – 2024/25

The Council's capital expenditure plans are the key driver of treasury management activity. The output of the capital expenditure plans is reflected in the prudential indicators, which are designed to assist members' overview and confirm capital expenditure plans.

### 5.1.1. Capital expenditure

Capital expenditure £m	2020/21 Actual	2021/22 Estimate	2022/23 Estimate	2023/24 Estimate	2024/25 Estimate
Social Care	0.077	0.150	6.150	6.539	0.000
Roads and Transportation	1.412	2.218	3.018	1.300	0.950
Education and Leisure	1.120	4.110	3.613	0.078	0.000
Marine Services	7.611	1.785	10.405	5.572	1.136
Other Services	3.879	4.253	5.515	3.590	3.590
<b>Non-HRA</b>	<b>14.099</b>	<b>12.516</b>	<b>28.701</b>	<b>17.079</b>	<b>5.676</b>
<b>HRA</b>	<b>2.359</b>	<b>2.693</b>	<b>5.681</b>	<b>0.656</b>	<b>0.000</b>
<b>Total</b>	<b>16.458</b>	<b>15.209</b>	<b>34.382</b>	<b>17.735</b>	<b>5.676</b>

### 5.1.2. Affordability prudential indicators

The previous sections cover the overall capital and control of borrowing prudential indicators, but within this framework prudential indicators are required to assess the affordability of the capital investment plans. These provide an indication of the impact of the capital investment plans on the Council's overall finances. The Council is asked to approve the following indicators:

#### a. Ratio of financing costs to net revenue stream

This indicator identifies the trend in the cost of capital (borrowing and other long-term obligation costs net of investment income) against the net revenue stream.

%	2020/21 Actual	2021/22 Estimate	2022/23 Estimate	2023/24 Estimate	2024/25 Estimate
General Fund	1.1%	0.7%	0.7%	1.1%	1.2%
Scapa Flow Oil Port	13.5%	18.2%	17.1%	22.5%	22.3%
Miscellaneous Piers	8.1%	20.1%	14.9%	12.4%	14.3%
Housing Revenue Account	21.8%	19.0%	18.0%	17.1%	14.9%

The estimates of financing costs include current commitments and the proposals in this budget report.



The above ratio for the Housing Revenue Account shows the amount of rent income being committed to servicing the long-term debt associated with the Council's house building strategy and as such, 35% should be regarded as the upper limit for the cost of capital relative to net revenue on the Housing Revenue Account, for the term of the current 5-year capital programme.

### HRA ratios

£	2020/21 Actual	2021/22 Estimate	2022/23 Estimate	2023/24 Estimate	2024/25 Estimate
HRA debt £m	9.737	10.862	10.401	10.596	10.203
HRA revenues £m	3.850	3.935	4.186	4.398	4.546
Ratio of debt to revenues %	39.5	36.2	40.2	41.5	44.5

£	2020/21 Actual	2021/22 Estimate	2022/23 Estimate	2023/24 Estimate	2024/25 Estimate
HRA debt £m	9.737	10.862	10.401	10.596	10.203
Number of HRA dwellings	946	982	1014	1028	1028
Debt per dwelling £	10,293	11,061	10,257	10,307	9,925

### 5.1.3. Maturity structure of borrowing

Maturity structure of borrowing. These gross limits are set to reduce the Council's exposure to large, fixed rate sums falling due for refinancing and are required for upper and lower limits.

The Council is asked to approve the following treasury indicators and limits:

<b>Maturity structure of fixed interest rate borrowing 2022/23</b>		
	Lower	Upper
Under 12 months	15%	10%
12 months to 2 years	0%	0%
2 years to 5 years	0%	0%
5 years to 10 years	0%	0%
10 years to 20 years	0%	0%
20 years and above	85%	90%

### 5.1.4. Control of interest rate exposure

Please see paragraphs 3.3, 3.4 and 4.4.

### 5.2. Interest Rate Forecasts 2022-2025

PWLB forecasts are based on PWLB certainty rates.

PWLB forecasts shown below have taken into account the 20 basis point certainty rate reduction effective as of the 1 November 2012.

Link Group Interest Rate View 7.2.22													
	Mar-22	Jun-22	Sep-22	Dec-22	Mar-23	Jun-23	Sep-23	Dec-23	Mar-24	Jun-24	Sep-24	Dec-24	Mar-25
<b>BANK RATE</b>	0.75	1.00	1.00	1.25	1.25	1.25	1.25	1.25	1.25	1.25	1.25	1.25	1.25
3 month av. earnings	0.80	1.00	1.00	1.20	1.20	1.20	1.20	1.20	1.20	1.20	1.20	1.20	1.20
6 month av. earnings	1.00	1.10	1.20	1.30	1.30	1.30	1.30	1.30	1.30	1.30	1.30	1.30	1.30
12 month av. earnings	1.40	1.50	1.60	1.70	1.70	1.60	1.60	1.50	1.40	1.40	1.40	1.40	1.40
5 yr PWLB	2.20	2.30	2.30	2.30	2.30	2.30	2.30	2.30	2.30	2.30	2.30	2.30	2.30
10 yr PWLB	2.30	2.40	2.40	2.40	2.40	2.40	2.40	2.40	2.40	2.40	2.40	2.40	2.40
25 yr PWLB	2.40	2.50	2.50	2.60	2.60	2.60	2.60	2.60	2.60	2.60	2.60	2.60	2.60
50 yr PWLB	2.20	2.30	2.30	2.40	2.40	2.40	2.40	2.40	2.40	2.40	2.40	2.40	2.40
<b>Bank Rate</b>													
Link	0.75	1.00	1.00	1.25	1.25	1.25	1.25	1.25	1.25	1.25	1.25	1.25	1.25
Capital Economics	0.50	0.75	1.00	1.25	1.25	1.25	1.25	1.25	-	-	-	-	-
<b>5yr PWLB Rate</b>													
Link	2.20	2.30	2.30	2.30	2.30	2.30	2.30	2.30	2.30	2.30	2.30	2.30	2.30
Capital Economics	2.00	2.10	2.10	2.20	2.20	2.30	2.40	2.40	-	-	-	-	-
<b>10yr PWLB Rate</b>													
Link	2.30	2.40	2.40	2.40	2.40	2.40	2.40	2.40	2.40	2.40	2.40	2.40	2.40
Capital Economics	2.20	2.20	2.20	2.30	2.30	2.40	2.50	2.50	-	-	-	-	-
<b>25yr PWLB Rate</b>													
Link	2.40	2.50	2.50	2.60	2.60	2.60	2.60	2.60	2.60	2.60	2.60	2.60	2.60
Capital Economics	2.40	2.40	2.50	2.60	2.60	2.70	2.80	2.90	-	-	-	-	-
<b>50yr PWLB Rate</b>													
Link	2.20	2.30	2.30	2.40	2.40	2.40	2.40	2.40	2.40	2.40	2.40	2.40	2.40
Capital Economics	2.10	2.20	2.30	2.40	2.50	2.60	2.70	2.90	-	-	-	-	-

### 5.3. Economic Background

#### COVID-19 and vaccines

These were the game changer during 2021 which raised high hopes that life in the UK would be able to largely return to normal in the second half of the year. However, the bursting onto the scene of the Omicron mutation at the end of November, rendered the initial two doses of all vaccines largely ineffective in preventing infection. This dashed such hopes and raised major concerns that a fourth wave of the virus could overwhelm hospitals in early 2022. What we now know is that although this mutation is very fast spreading, it does not cause severe illness in fully vaccinated people. Rather than go for full lockdowns which heavily damage the economy, the government strategy this time focused on getting as many people as possible to have a third (booster) vaccination after three months from the previous last injection., It also placed restrictions on large indoor gatherings and hospitality venues over Christmas and into January and requested workers to work from home.

This hit sectors like restaurants, travel, tourism and hotels hard which had already been hit hard during 2021. Economic growth will also have been lower due to people being ill and not working, similar to the pandemic in July. The economy, therefore, faces significant headwinds in early 2022 although some sectors have learned how to cope well with Covid. The big question still remains as to whether any further mutations of this virus could develop which render all current vaccines ineffective, as opposed to how quickly vaccines can be modified to deal with them and enhanced testing programmes be implemented to contain their spread until tweaked vaccines become widely available.

### **A Summary Overview of the Future Path of Bank Rate**

- The threat from Omicron was a wild card causing huge national concern at the time of December's MPC meeting; now it is seen as a vanquished foe disappearing in the rear-view mirror.
- The MPC shifted up a gear last week in raising Bank Rate by another 0.25% and narrowly avoiding making it a 0.50% increase by a 5-4 voting margin.
- Our forecast now expects the MPC to deliver another 0.25% increase in March; their position appears to be to go for sharp increases to get the job done and dusted.
- The March increase is likely to be followed by an increase to 1.0% in May and then to 1.25% in November.
- The MPC is currently much more heavily focused on combating inflation than on protecting economic growth.
- However, 54% energy cap cost increases from April, together with 1.25% extra employee national insurance, food inflation around 5% and council tax likely to rise in the region of 5% too - these increases are going to hit lower income families hard despite some limited assistance from the Chancellor to postpone the full impact of rising energy costs.
- Consumers are estimated to be sitting on over £160bn of excess savings left over from the pandemic so that will cushion some of the impact of the above increases. But most of those holdings are held by more affluent people whereas poorer people already spend nearly all their income before these increases hit and have few financial reserves.
- The increases are already highly disinflationary; inflation will also be on a gradual path down after April so that raises a question as to whether the MPC may shift into protecting economic growth by November, i.e., it is more debatable as to whether they will deliver another increase then.
- The BIG ISSUE – will the current spike in inflation lead to a second-round effect in terms of labour demanding higher wages, (and/or lots of people getting higher wages by changing job)?
- If the labour market remains very tight during 2022, then wage inflation poses a greater threat to overall inflation being higher for longer, and the MPC may then feel it needs to take more action.

## PWLB Rates

- The yield curve has flattened out considerably.
- We view the markets as having built in, already, nearly all the effects on gilt yields of the likely increases in Bank Rate.
- It is difficult to say currently what effect the Bank of England starting to sell gilts will have on gilt yields once Bank Rate rises to 1%: it is likely to act cautiously as it has already started on not refinancing maturing debt. A passive process of not refinancing maturing debt could begin in March when the 4% 2022 gilt matures; the Bank owns £25bn of this issuance. A pure roll-off of the £875bn gilt portfolio by not refinancing bonds as they mature, would see the holdings fall to about £415bn by 2031, which would be about equal to the Bank's pre-pandemic holding. Last August, the Bank said it would not actively sell gilts until the "Bank Rate had risen to at least 1%" and, "depending on economic circumstances at the time."
- It is possible that Bank Rate will not rise above 1% as the MPC could shift to relying on quantitative tightening (QT) to do the further work of taking steam out of the economy and reducing inflationary pressures.
- Increases in US treasury yields over the next few years could add upside pressure on gilt yields though, more recently, gilts have been much more correlated to movements in bund yields than treasury yields.

## MPC Meeting – 4 February 2022

- After the Bank of England became the first major western central bank to put interest rates up in this upswing in December, it has quickly followed up its first 0.15% rise by another 0.25% rise to 0.50%, in the second of what is very likely to be a series of increases during 2022.
- The Monetary Policy Committee voted by a majority of 5-4 to increase Bank Rate by 25bps to 0.5% with the minority preferring to increase Bank Rate by 50bps to 0.75%. The Committee also voted unanimously for the following:
  - to reduce the £875n stock of UK government bond purchases, financed by the issuance of central bank reserves, by ceasing to reinvest maturing assets.
  - to begin to reduce the £20bn stock of sterling non-financial investment-grade corporate bond purchases by ceasing to reinvest maturing assets and by a programme of corporate bond sales to be completed no earlier than towards the end of 2023.
- The Bank again sharply increased its forecast for inflation – to now reach a peak of 7.25% in April, well above its 2% target.
- The Bank estimated that UK GDP rose by 1.1% in quarter 4 of 2021 but, because of the effect of Omicron, GDP would be flat in quarter 1, but with the economy recovering during February and March. Due to the hit to households' real incomes from higher inflation, it revised down its GDP growth forecast for 2022 from 3.75% to 3.25%.
- The Bank is concerned at how tight the labour market is with vacancies at near record levels and a general shortage of workers - who are in a very favourable position to increase earnings by changing job.

- As in the December 2021 MPC meeting, the MPC was more concerned with combating inflation over the medium term than supporting economic growth in the short term. However, what was notable was the Bank's forecast for inflation: based on the markets' expectations that Bank Rate will rise to 1.50% by mid-2023, it forecast inflation to be only 1.6% in three years' time. In addition, if energy prices beyond the next six months fell as the futures market suggests, the Bank said CPI inflation in three years' time would be even lower at 1.25%. With calculations of inflation, the key point to keep in mind is that it is the rate of change in prices – not the level – that matters. Accordingly, even if oil and natural gas prices remain flat at their current elevated level, energy's contribution to headline inflation will drop back over the course of this year. That means the current energy contribution to CPI inflation, of 2% to 3%, will gradually fade over the next year.
- So the message to take away from the Bank's forecast is that they do not expect Bank Rate to rise to 1.5% in order to hit their target of CPI inflation of 2%. The immediate issue is with four members having voted for a 0.50% increase in February, it would only take one member more for there to be another 0.25% increase at the March meeting.
- **The MPC's forward guidance on its intended monetary policy** on raising Bank Rate versus selling (quantitative tightening) holdings of bonds is as follows:
  - Raising Bank Rate as “the active instrument in most circumstances”.
  - Raising Bank Rate to 0.50% before starting on reducing its holdings.
  - Once Bank Rate is at 0.50% it would stop reinvesting maturing gilts.
  - Once Bank Rate had risen to at least 1%, it would start selling its holdings.

## Our Forecasts

### Bank Rate

- Covid remains a major potential downside threat as we are most likely to get further mutations. However, their severity and impact could vary widely, depending on vaccine effectiveness and how broadly it is administered.
- If the UK invokes article 16 of the Brexit deal over the dislocation in trading arrangements with Northern Ireland, this has the potential to end up in a no-deal Brexit.

In summary, with the high level of uncertainty prevailing on several different fronts, we expect to have to revise our forecasts again - in line with whatever the new news is.

### PWLB rates and gilt and treasury yields

**Gilt yields.** Since the start of 2021, we have seen a lot of volatility in gilt yields, and hence PWLB rates. Our forecasts show little overall increase in gilt yields during the forecast period to March 2025 but there will doubtless be a lot of unpredictable volatility during this forecast period.

While monetary policy in the UK will have a major impact on gilt yields, there is also a need to consider the potential impact that rising treasury yields in America could have on gilt yields. **As an average since 2011, there has been a 75% correlation between movements in US 10-year treasury yields and UK 10-year gilt yields. This is a significant UPWARD RISK exposure to our forecasts for medium to longer term PWLB rates. However, gilt yields and treasury yields do not always move in unison.**

**US treasury yields.** During the first part of 2021, US President Biden's, and the Democratic party's, determination to push through a \$1.9trn (equivalent to 8.8% of GDP) fiscal boost for the US economy as a recovery package from the Covid pandemic was what unsettled financial markets. This was in addition to the \$900bn support package previously passed in December 2020. Financial markets were alarmed that all this stimulus was happening at a time when: -

- A fast vaccination programme roll-out had enabled a rapid opening up of the economy during 2021.
- The economy was growing strongly during the first half of 2021 although it has weakened during the second half.
- It started from a position of little spare capacity due to less severe lockdown measures than in many other countries.
- And the Fed was still providing substantial stimulus through monthly QE purchases during 2021.

It was not much of a surprise that a combination of these factors would eventually cause an excess of demand in the economy which generated strong inflationary pressures. This has eventually been recognised by the Fed at its recent December meeting with an aggressive response to damp inflation down during 2022 and 2023.

- **At its 3rd November Fed meeting**, the Fed decided to make a start on tapering its \$120bn per month of QE purchases so that they ended next June. However, at its **15th December** meeting it doubled the pace of tapering so that they will end all purchases in February. These purchases are currently acting as downward pressure on treasury yields and so it would be expected that treasury yields will rise over the taper period, all other things being equal.
- It also forecast that it expected there would be three rate rises in 2022 of 0.25% from near zero currently, followed by three in 2023 and two in 2024. This would take rates back above 2% to a neutral level for monetary policy. It also gave up on calling the sharp rise in inflation as being 'transitory'.
- At its **26th January meeting**, the Fed became even more hawkish following inflation rising sharply even further. It indicated that rates would begin to rise very soon, i.e., it implied at its March meeting it would increase rates and start to run down its holdings of QE purchases. It also appears likely that the Fed could take action to force longer term treasury yields up by prioritising selling holdings of its longer bonds as yields at this end have been stubbornly low despite rising inflation risks. The low level of longer dated yields is a particular concern for the Fed because it is a key channel through which tighter monetary policy is meant to transmit to broader financial conditions, particularly in the US where long rates are a key driver of household and corporate borrowing costs.

There are also possible **DOWNSIDE RISKS** from the huge sums of cash that the UK populace have saved during the pandemic; when savings accounts earn little interest, it is likely that some of this cash mountain could end up being invested in bonds and so push up demand for bonds and support their prices i.e., this would help to keep their yields down. How this will interplay with the Bank of England eventually getting round to not reinvesting maturing gilts and then later selling gilts, will be interesting to monitor.

**Globally, our views are as follows:**

- **EU.** The ECB joined with the Fed by announcing on **16th December** that it will be reducing its QE purchases - by half from October 2022, i.e., it will still be providing significant stimulus via QE purchases during the first half of 2022. The ECB did not change its rate at its **3rd February** meeting, but it was clearly shocked by the increase in inflation to 5.1% in January. The President of the ECB, Christine Lagarde, hinted in the press conference after the meeting that the ECB may accelerate monetary tightening before long and she hinted that asset purchases could be reduced more quickly than implied by the previous guidance. She also refused to reaffirm officials' previous assessment that interest rate hikes in 2022 are "very unlikely". It, therefore, now looks likely that all three major western central banks will be raising rates this year in the face of sharp increases in inflation - which is looking increasingly likely to be stubbornly high and for much longer than the previous oft repeated 'transitory' descriptions implied.
- **CHINA.** The pace of economic growth has now fallen back after the initial surge of recovery from the pandemic and China has been struggling to contain the spread of the Delta variant through using sharp local lockdowns - which depress economic growth. However, with Omicron having now spread to China, and being much more easily transmissible, lockdown strategies may not prove so successful in future. To boost flagging economic growth, The People's Bank of China cut its key interest rate in December 2021.
- **JAPAN.** 2021 was a patchy year in combating Covid. However, recent business surveys indicate that the economy is rebounding rapidly now that the bulk of the population is fully vaccinated, and new virus cases have plunged. The Bank of Japan is continuing its very loose monetary policy but with little prospect of getting inflation back towards its target of 2% any time soon.
- **WORLD GROWTH.** World growth was in recession in 2020 but recovered during 2021 until starting to lose momentum more recently. Inflation has been rising due to increases in gas and electricity prices, shipping costs and supply shortages, although these should subside during 2022. It is likely that we are heading into a period where there will be a reversal of **world globalisation** and a decoupling of western countries from dependence on China to supply products, and vice versa. This is likely to reduce world growth rates from those in prior decades.

- **SUPPLY SHORTAGES.** The pandemic and extreme weather events, followed by a major surge in demand after lockdowns ended, have been highly disruptive of extended worldwide supply chains. Major queues of ships unable to unload their goods at ports in New York, California and China built up rapidly during quarters 2 and 3 of 2021 but then halved during quarter 4. Such issues have led to a misdistribution of shipping containers around the world and have contributed to a huge increase in the cost of shipping. Combined with a shortage of semi-conductors, these issues have had a disruptive impact on production in many countries. The latest additional disruption has been a shortage of coal in China leading to power cuts focused primarily on producers (rather than consumers), i.e., this will further aggravate shortages in meeting demand for goods. Many western countries are also hitting up against a difficulty in filling job vacancies. It is expected that these issues will be gradually sorted out, but they are currently contributing to a spike upwards in inflation and shortages of materials and goods available to purchase.

#### **The balance of risks to the UK economy:**

- The overall balance of risks to economic growth in the UK is now to the downside.

#### **Downside risks to current forecasts for UK gilt yields and PWLB rates include:**

- **Mutations** of the virus render current vaccines ineffective, and tweaked vaccines to combat these mutations are delayed or unable to be administered fast enough to stop the NHS being overwhelmed.
- **Labour and supply shortages** prove more enduring and disruptive and depress economic activity.
- **Bank of England** acts too quickly, or too far, over the next three years to raise Bank Rate and causes UK economic growth, and increases in inflation, to be weaker than we currently anticipate.
- **The Government** acts too quickly to increase taxes and/or cut expenditure to balance the national budget.
- **UK / EU trade arrangements** – if there was a major impact on trade flows and financial services due to complications or lack of co-operation in sorting out significant remaining issues.
- **Geopolitical risks**, for example in Ukraine/Russia, Iran, China, North Korea and Middle Eastern countries, which could lead to increasing safe-haven flows. If Russia were to invade Ukraine, this would be likely to cause short term volatility in financial markets, but it would not be expected to have a significant impact beyond that.

#### **Upside risks to current forecasts for UK gilt yields and PWLB rates:**

- The **Bank of England is too slow** in its pace and strength of increases in Bank Rate and, therefore, allows inflationary pressures to build up too strongly within the UK economy, which then necessitates a later rapid series of increases in Bank Rate faster than we currently expect.
- Longer term US treasury yields rise strongly and pull gilt yields up higher than forecast.



#### 5.4. Treasury Management Practice (TMP1): Permitted Investments

This Council approves the following forms of investment instrument for use as permitted investments as set out in table 1 and table 2.

##### Treasury risks

All the investment instruments in tables 1 and 2 are subject to the following risks:

1. **Credit and counter-party risk:** this is the risk of failure by a counterparty (bank or building society) to meet its contractual obligations to the organisation particularly as a result of the counterparty's diminished creditworthiness, and the resulting detrimental effect on the organisation's capital or current (revenue) resources. There are no counterparties where this risk is zero although AAA rated organisations have the highest, relative, level of creditworthiness.
2. **Liquidity risk:** this is the risk that cash will not be available when it is needed. While it could be said that all counterparties are subject to at least a very small level of liquidity risk as credit risk can never be zero, in this document, liquidity risk has been treated as whether or not instant access to cash can be obtained from each form of investment instrument. However, it has to be pointed out that while some forms of investment e.g. gilts, CDs, corporate bonds can usually be sold immediately if the need arises, there are two caveats: - a. cash may not be available until a settlement date up to three days after the sale and b. there is an implied assumption that markets will not freeze up and so the instrument in question will find a ready buyer. The column in tables 1 / 2 headed as 'market risk' will show each investment instrument as being instant access, sale T+3 = transaction date plus 3 business days before you get cash, or term i.e. money is locked in until an agreed maturity date.
3. **Market risk:** this is the risk that, through adverse market fluctuations in the value of the principal sums an organisation borrows and invests, its stated treasury management policies and objectives are compromised, against which effects it has failed to protect itself adequately. However, some cash rich local authorities may positively want exposure to market risk e.g., those investing in investment instruments with a view to obtaining a long-term increase in value.
4. **Interest rate risk:** this is the risk that fluctuations in the levels of interest rates create an unexpected or unbudgeted burden on the organisation's finances, against which the organisation has failed to protect itself adequately. This authority has set limits for its fixed and variable rate exposure in its Treasury Indicators in this report. It also manages interest rate risk by maintaining a number of discrete investment portfolios which are managed by external fund managers. The separation of equities, multi-asset and bond investments in this way effectively minimises the Council's exposure to interest rate movements.
5. **Legal and regulatory risk:** this is the risk that the organisation itself, or an organisation with which it is dealing in its treasury management activities, fails to act in accordance with its legal powers or regulatory requirements, and that the organisation suffers losses accordingly.

## Controls on treasury risks

1. **Credit and counter-party risk:** this authority has set minimum credit criteria to determine which counterparties and countries are of sufficiently high creditworthiness to be considered for investment purposes. See paragraphs 4.2 and 4.3.
2. **Liquidity risk:** this authority has a Treasury Management cash flow forecasting model to enable it to determine how long investments can be made for and how much can be invested.
3. **Market risk:** this is a risk that, through adverse market fluctuations in the value of the principle sums an organisation borrows and invests, its stated treasury management policies and objectives are compromised, against which effects it has failed to protect itself adequately. However, as a cash rich local authority the Council carries an active exposure to market risk, e.g. those investing in investment instruments through the Strategic Reserve Fund with a view to obtaining a long-term increase in value.
4. **Interest rate risk:** this authority manages this risk by having a view of the future course of interest rates and then formulating a treasury management strategy accordingly which aims to maximise investment earnings consistent with control of risk or alternatively, seeks to minimise expenditure on interest costs on borrowing. See paragraph 4.4.
5. **Legal and regulatory risk:** this authority will not undertake any form of investing until it has ensured that it has all necessary powers and also complied with all regulations. All types of investment instruments.

## Unlimited investments

Regulation 24 states that an investment can be shown in tables 1 / 2 as being 'unlimited' in terms of the maximum amount or percentage of the total portfolio that can be put into that type of investment. However, it also requires that an explanation must be given for using that category.

The authority has given the following types of investment an unlimited category: -

1. **Debt Management Agency Deposit Facility.** This is considered to be the lowest risk form of investment available to local authorities as it is operated by the Debt Management Office which is part of H.M. Treasury i.e. the UK Government's sovereign rating stands behind the DMADF. It is also a deposit account and avoids the complications of buying and holding Government issued treasury bills or gilts.
2. **High credit worthiness banks and building societies.** See paragraph 4.2 for an explanation of this authority's definition of high credit worthiness. While an unlimited amount of the investment portfolio may be put into banks and building societies with high credit worthiness, the authority will ensure diversification of its Treasury Management portfolio ensuring that no more than 25% of the total portfolio can be placed with any one institution or group at any one time.
3. **The Council's Current Provider of Banking Services.** In normal circumstances the authority will ensure diversification of its portfolio ensuring that no more than 25% of the total portfolio can be placed with any one institution or group at any one time. In restricted circumstances, however, to be determined

on a case by case basis by the Head of Finance as Section 95 Officer to the Council, the Council's banker is further authorised to hold an unlimited amount, or up to 100%, of Council funds either in the form of cash or bonds as part of the transition process or portfolio restructuring exercise, in respect of the Strategic Reserve Fund managed fund investments, for a maximum period of up to 7 working days.

### **Objectives of each type of investment instrument**

Regulation 25 requires an explanation of the objectives of every type of investment instrument which an authority approves as being 'permitted'.

#### **1. Deposits**

The following forms of 'investments' are actually more accurately called deposits as cash is deposited in an account until an agreed maturity date or is held at call.

- a) **Debt Management Agency Deposit Facility.** This offers the lowest risk form of investment available to local authorities as it is effectively an investment placed with the Government. It is also easy to use as it is a deposit account and avoids the complications of buying and holding Government issued treasury bills or gilts. As it is low risk it also earns low rates of interest. However, it is very useful for authorities whose overriding priority is the avoidance of risk. The longest period for a term deposit with the DMADF is 6 months.
- b) **Term deposits with high credit worthiness banks and building societies.** See paragraph 4.2 for an explanation of this authority's definition of high credit worthiness. This is the most widely used form of investing used by local authorities. It offers a much higher rate of return than the DMADF (dependent on term). The authority will ensure diversification of its portfolio of Treasury Management deposits ensuring that no more than 25% of the total portfolio can be placed with any one institution or group. In addition, longer term deposits offer an opportunity to increase investment returns by locking in high rates ahead of an expected fall in the level of interest rates. At other times, longer term rates can offer good value when the markets incorrectly assess the speed and timing of interest rate increases. This form of investing therefore, offers a lot of flexibility and higher earnings than the DMADF. Where it is restricted is that once a longer-term investment is made, that cash is locked in until the maturity date.
- c) **Call accounts with high credit worthiness banks and building societies.** The objectives are as for 1b. but there is instant access to recalling cash deposited. This generally means accepting a lower rate of interest than that which could be earned from the same institution by making a term deposit. Some use of call accounts is highly desirable to ensure that the authority has ready access to cash when needed to pay bills.
- d) **Fixed term deposits with variable rate and variable maturities (structured deposits).** This line encompasses ALL types of structured deposits. There has been considerable change in the types of structured deposits brought to the market over the last few years, some of which are already no longer available. In view of the fluidity of this area, this is a generic title for all structured deposits so

as to provide councils with greater flexibility to adopt new instruments as and when they are brought to the market. However, this does mean that members ought to be informed as to what instruments are presently under this generic title so that they are aware of the current situation, and that they are informed and approve of intended changes in an appropriate manner.

- e) **Collateralised deposits.** These are deposits placed with a bank which offers collateral backing based on specific assets. Examples seen in the past have included local authority LOBOs, where such deposits are effectively lending to a local authority as that is the ultimate security.

## 2. Deposits with Counterparties Currently in Receipt of Government Support / Ownership

These banks offer another dimension of creditworthiness in terms of Government backing through either partial or full direct ownership. The view of this authority is that such backing makes these banks attractive institutions with whom to place deposits, and that will remain our view if the UK sovereign rating were to be downgraded in the coming year.

- a. **Term deposits with high credit worthiness banks which are fully or semi nationalised.** As for 1b. but Government full, (or substantial partial), ownership, implies that the Government stands behind this bank and will be deeply committed to providing whatever support that may be required to ensure the continuity of that bank. This authority considers that this indicates a low and acceptable level of residual risk.
- b. **Fixed term deposits with variable rate and variable maturities (structured deposits).** This line encompasses ALL types of structured deposits. There has been considerable change in the types of structured deposits brought to the market over the last few years, some of which are already no longer available. In view of the fluidity of this area, this is a generic title for all structured deposits so as to provide councils with greater flexibility to adopt new instruments as and when they are brought to the market. However, this does mean that members ought to be informed as to what instruments are presently covered under this generic title so that they are aware of the current situation, and that they are informed and approve of intended changes in an appropriate manner.

## 3. Collective Investment Schemes Structured as Open-Ended Investment Companies (OEICS)

- a. **Government liquidity funds.** These are the same as money market funds (see below) but only invest in government debt issuance with highly rated governments. Due to the higher quality of underlying investments, they offer a lower rate of return than MMFs. However, their net return is typically on a par with the DMADF, but with instant access.
- b. **Money Market Funds (MMFs).** By definition, MMFs are AAA rated and are widely diversified, using many forms of money market securities including types which this authority does not currently have the expertise or capabilities to hold directly. However, due to the high level of expertise of the fund managers and

the huge amounts of money invested in MMFs, and the fact that the weighted average maturity (WAM) cannot exceed 60 days, MMFs offer a combination of high security, instant access to funds, high diversification and good rates of return compared to equivalent instant access facilities. They are particularly advantageous in falling interest rate environments as their 60-day WAM means they have locked in investments earning higher rates of interest than are currently available in the market. MMFs also help an authority to diversify its own portfolio as e.g. a £2m investment placed directly with HSBC is a 100% risk exposure to HSBC whereas £2m invested in a MMF may end up with say £10,000 being invested with HSBC through the MMF. For authorities particularly concerned with risk exposure to banks, MMFs offer an effective way of minimising risk exposure while still getting much better rates of return than available through the DMADF.

- c. **Ultra-short dated bond funds.** These funds are similar to MMFs, can still be AAA rated but have variable net asset values (VNAV) as opposed to a traditional MMF which has a Constant Net Asset Value (CNAV). They aim to achieve a higher yield and to do this either take more credit risk or invest out for longer periods of time, which means they are more volatile. These funds can have WAM's and Weighted Average Life (WAL's) of 90 – 365 days or even longer. Their primary objective is yield and capital preservation is second. They therefore are a higher risk than MMFs and correspondingly have the potential to earn higher returns than MMFs.
- d. **Gilt funds.** These are funds which invest only in U.K. Government gilts. They offer a lower rate of return than bond funds but are highly rated both as a fund and through investing only in highly rated government securities. They offer a higher rate of return than investing in the DMADF, but they do have an exposure to movements in market prices of assets held.
- e. **Bond funds.** These can invest in both government and corporate bonds. This therefore entails a higher level of risk exposure than gilt funds and the aim is to achieve a higher rate of return than normally available from gilt funds by trading in non-government bonds.

#### 4. Securities Issued or Guaranteed by Governments

The following types of investments are where an authority directly purchases a particular investment instrument, a security, i.e. it has a market price when purchased and that value can change during the period the instrument is held until it matures or is sold. The annual earnings on a security is called a yield i.e. it is normally the interest paid by the issuer divided by the price you paid to purchase the security unless a security is initially issued at a discount e.g. treasury bills.

- a. **Treasury bills.** These are short term bills, (up to 18 months but usually 9 months or less), issued by the Government and so are backed by the sovereign rating of the UK. The yield is higher than the rate of interest paid by the DMADF and another advantage compared to a time deposit in the DMADF is that they can be sold if there is a need for access to cash at any point in time. However, there is a spread between purchase and sale prices so early sales could incur a net cost during the period of ownership.

- b. **Gilts.** These are longer term debt issuance by the UK Government and are backed by the sovereign rating of the UK. The yield is higher than the rate of interest paid by the DMADF and another advantage compared to a time deposit in the DMADF is that they can be sold if there is a need for access to cash at any point in time. However, there is a spread between purchase and sale prices so early sales may incur a net cost. Market movements that occur between purchase and sale may also have an adverse impact on proceeds. The advantage over Treasury bills is that they generally offer higher yields the longer it is to maturity (for most periods) if the yield curve is positive.
- c. **Bond issuance issued by a financial institution which is explicitly guaranteed by the UK Government** e.g. National Rail. This is similar to a gilt due to the explicit Government guarantee.
- d. **Sovereign bond issues (other than the UK govt) denominated in Sterling.** As for gilts but issued by other nations. Use limited to issues of nations with at least the same sovereign rating as for the UK.
- e. **Bonds issued by Multi-Lateral Development Banks (MLDBs).** These are similar to c. and e. above but are issued by MLDBs which are typically guaranteed by a group of sovereign states e.g. European Bank for Reconstruction and Development.

## 5. Securities Issued by Corporate Organisations

The following types of investments are where an authority directly purchases a particular investment instrument, a security, i.e. it has a market price when purchased and that value can change during the period the instrument is held until it is sold. The annual earnings on a security is called a yield i.e. is the interest paid by the issuer divided by the price you paid to purchase the security. These are similar to the previous category, but corporate organisations can have a wide variety of credit worthiness, so it is essential for local authorities to only select the organisations with the highest levels of credit worthiness. Corporate securities are generally a higher risk than government debt issuance and so earn higher yields.

- a. **Certificates of deposit (CDs).** These are shorter term securities issued by deposit taking institutions (mainly financial institutions). They are negotiable instruments, so can be sold ahead of maturity and also purchased after they have been issued. However, that liquidity can come at a price, where the yield could be marginally less than placing a deposit with the same bank as the issuing bank.
- b. **Commercial paper.** This is similar to CDs but is issued by commercial organisations or other entities. Maturity periods are up to 365 days but commonly 90 days.
- c. **Corporate bonds.** These are (long term) bonds (usually bearing a fixed rate of interest) issued by a financial institution, company or other non-government issuer in order to raise capital for the institution as an alternative to issuing shares or borrowing from banks. They are generally seen to be of a lower creditworthiness than government issued debt and so usually offer higher rates of yield.

- d. **Floating rate notes.** These are bonds on which the rate of interest is established periodically with reference to short-term interest rates.

## 6. Other

**Property fund.** This is a collective investment fund specialising in property. Rather than owning a single property with all the risk exposure that means to one property in one location rising or falling in value, maintenance costs, tenants actually paying their rent / lease etc., a collective fund offers the advantage of diversified investment over a wide portfolio of different properties. This can be attractive for authorities who want exposure to the potential for the property sector to rise in value. However, timing is critical to entering or leaving this sector at the optimum times of the property cycle of rising and falling values. Typically, the minimum investment time horizon for considering such funds is at least 3-5 years.

**Diversified Growth Fund.** This is a collective investment fund specialising in a diversified investment approach. Rather than holding individual stocks and shares a collective fund offers the advantage of more diversified investment over a wider portfolio of investments and range of asset classes. This can be attractive for authorities who want exposure to the potential for asset classes including listed equities, private equity, high yield and investment grade bonds, structured finance, emerging market bonds, absolute return, insurance linked, commodities, infrastructure and currency assets to rise in value. By their very nature, some of these asset classes are regarded as being higher risk and as such it is not considered prudent to hold individual stocks as a direct investment. The risk profile of the collective investment fund is managed as a whole to smooth out the volatility in terms of the performance of individual investments and across asset classes.

**Enhanced Yield Debt or Multi Asset Credit Fund.** This is a collective investment fund specialising in enhanced yield debt focused strategies or multi asset credit investment approach. Rather than holding individual stocks and shares a collective fund offers the advantage of targeting a select group of investments and range of asset classes. This can be attractive for authorities who want exposure to the specialist area of enhanced yield debt strategies or multi asset credit asset classes including for example senior secured corporate debt, high yield, mezzanine corporate debt, property debt, infrastructure debt, asset-backed securities and distressed debt. Some of these asset classes are regarded as being both higher risk and by their nature can be more illiquid, as such it is not considered prudent to hold individual stocks as a direct investment. The risk profile of the collective investment fund is managed as a whole to smooth out the volatility in terms of the performance of individual investments and across asset classes.

**Private Debt Fund.** This is an investment fund specialising in directly originated senior secured loans to private equity-owned businesses. Private debt provides a spread pick-up versus the syndicated loan markets. The privately negotiated debt deals tend to be structured with strong financial covenants which protect lenders. Lenders in the private credit market can also benefit from origination fees, which benefit banks in the syndicated market.

**Strategic Alternative Income Fund.** This is a collective investment fund specialising in private market assets. Rather than holding individual stocks and shares a collective fund offers the advantage of targeting a select group of investments and range of asset classes. This can be attractive for authorities who want exposure to the potential for asset classes including infrastructure debt, renewable energy, real estate debt, long lease property and private credit. By their very nature, some of these asset classes are regarded as being higher risk and can be more illiquid, as such it is not considered prudent to hold individual stocks as a direct investment. This type of fund is designed to deliver predictable, long-term cash flows that have explicit and implicit linkage to inflation.

**Table 1: permitted investments in house – Treasury Management and Common Good**

This table is for use by the in-house treasury management team.

### 1.1. Deposits

	* Minimum Credit Criteria / colour banding	Liquidity risk	Market risk	Max % of total investments	Max. maturity period
Debt Management Agency Deposit Facility (DMADF)	--	term	no	100%	6 months
Term deposits – local authorities	--	term	no	100%	2 years
Call accounts – banks and building societies **	Green	instant	no	100%	2 years
Term deposits – banks and building societies **	Green	term	no	100%	2 years
Fixed term deposits with variable rate and variable maturities: - Structured deposits.	Green	term	no	20%	2 years
Collateralised deposit (see note 2)	UK sovereign rating or note 1	term	no	20%	2 years



## 1.2. Deposits with counterparties currently in receipt of government support / ownership

	* Minimum Credit Criteria / colour banding	Liquidity risk	Market risk	Max % of total investments	Max. maturity period
UK part nationalised banks	See note 1	term	no	100%	2 years
Banks part nationalised by high credit rated (sovereign rating) countries – non-UK	Sovereign rating or note 1	term	no	20%	2 years
Fixed term deposits with variable rate and variable maturities: - Structured deposits	See note 1	term	yes	20%	2 years

## 1.3. Collective investment schemes structured as Open-Ended Investment Companies (OEICs)

	* Minimum Fund Rating	Liquidity risk	Market risk	Max % of total investments	Max. maturity period
1. Government Liquidity Funds	* MMF rating	instant	No See app 5.5	20%	60-day weighted average
2b. Money Market Funds LVNAV	* MMF rating	instant	No See app 5.5	20%	60-day weighted average
3. Ultra-short dated bond funds with a credit score of 1.25	* Bond fund rating	T+1 to T+5	yes	20%	90-day weighted average
4. Ultra-short dated bond funds with a credit score of 1.5	* Bond fund rating	T+1 to T+5	yes	20%	90-day weighted average
5. Bond Funds	* Bond fund rating (or alternative measure if not rated)	T+2 or longer	yes	20%	10-year weighted average
6. Gilt Funds	* Bond fund rating (or alternative measure if not rated)	T+2 or longer	yes	20%	10-year weighted average

#### 1.4. Securities issued or guaranteed by governments

	* Minimum Credit Criteria	Liquidity risk	Market risk	Max % of total investments	Max. maturity period
Treasury Bills	UK sovereign rating	Sale T+1	yes	20%	1 year
UK Government Gilts	UK sovereign rating	Sale T+1	yes	20%	30 years
Bond issuance issued by a financial institution which is explicitly guaranteed by the UK Government e.g. National Rail	UK sovereign rating	Sale T+3	yes	20%	30 years
Sovereign bond issues (other than the UK govt)	AAA (or state your criteria if different)	Sale T+1	yes	20%	30 years
Bonds issued by multilateral development banks	AAA (or state your criteria if different)	Sale T+1	yes	20%	30 years

#### 1.5. Securities issued by corporate organisations

	* Minimum Credit Criteria	Liquidity risk	Market risk	Max % of total investments	Max. maturity period
Certificates of deposit issued by banks and building societies	Green	Sale T+0	yes	20%	2 year
Commercial paper other	* Short-term F1, A1, P1, Long-term A, Viability C, Support 2	Sale T+0	yes	20%	90 days
Floating rate notes	* Short-term F1, A1, P1, Long-term A, Viability C, Support 2	Sale T+0	yes	20%	30 years
Corporate Bonds other	* Short-term F1, A1, P1, Long-term A, Viability C, Support 2	Sale T+3	yes	20%	30 years

**Accounting treatment of investments.** The accounting treatment may differ from the underlying cash transactions arising from investment decisions made by this Council. To ensure that the Council is protected from any adverse revenue impact, which may arise from these differences, we will review the accounting implications of new transactions before they are undertaken.

## 1.6. Other

	* Minimum Credit Criteria / fund rating	Liquidity risk	Market risk	Max % of total investments	Max. maturity period
Property Funds	--	T+4	yes	20%	30 years
Diversified Growth Funds	-	T+4	Yes	20%	30 years
Enhanced Yield Debt Strategies or Multi Asset Fund	-	T+4	Yes	20%	30 years
Local authority mortgage scheme	Short-term F1, A1, P1, Long-term AA-, Viability B, Support 3			£5M	5 years

**Table 2: permitted investments for use by external fund managers – Strategic Reserve Fund and Common Good**

### 2.1. Deposits

	* Minimum Credit Criteria	Liquidity risk	Market risk	Max % of total investments	Max. maturity period
Term deposits – local authorities	--	term	no	100%	2 years
Call accounts – banks and building societies **	See note 1	instant	no	100%	On call
Term deposits – banks and building societies **	* Short-term F1, A1 P1, Long-term A	term	no	100%	2 years
Collateralised deposit (see note 2)	UK sovereign rating or note 1	term	no	20%	2 years

### 2.2. Deposits with counterparties currently in receipt of government support / ownership

	* Minimum Credit Criteria	Liquidity risk	Market risk	Max % of total investments	Max. maturity period
UK part nationalised banks	UK sovereign rating	Term or instant	no	20%	2 years
Banks part nationalised by high credit rated (sovereign rating) countries – non-UK**	UK sovereign rating or AA- long-term rating	Term or instant	no	20%	2 years

### 2.3. Collective investment schemes structured as Open-Ended Investment Companies (OEICs)

	* Minimum Fund Rating	Liquidity risk	Market risk	Max % of total investments	Max. maturity period
1. Government Liquidity Funds	* MMF rating	instant	No see app 5.5	20%	60 days weighted average
2b. Money Market Funds LVNAV	* MMF rating	instant	No see app 5.5	20%	60 days weighted average
3. Ultra-short dated bond funds with a credit score of 1.25	* bond fund rating	T+>1	yes	20%	90 days weighted average
4. Ultra-short dated bond funds with a credit score of 1.5	* bond fund rating	T+>1	yes	20%	10 years weighted average
5. Bond Funds	* Bond fund rating (or alternative measure if not rated)	T+>1	yes	20%	10 years weighted average
6. Gilt Funds	* Bond fund rating (or alternative measure if not rated)	T+>1	yes	20%	10 years weighted average

### 2.4. Securities issued or guaranteed by governments

	* Minimum Credit Criteria	Liquidity risk	Market risk	Max % of total investments	Max. maturity period
Treasury Bills	UK sovereign rating	Sale T+1	yes	20%	1 year
UK Government Gilts	UK sovereign rating	Sale T+1	yes	20%	100 years
Bond issuance issued by a financial institution which is explicitly guaranteed by the UK Government e.g. National Rail	UK sovereign rating	Sale T+3	yes	20%	100 years
Sovereign bond issues (other than the UK govt)	AAA (or state your criteria if different)	Sale T+1	yes	20%	100 years
Bonds issued by multilateral development banks	AAA (or state your criteria if different)	Sale T+1	yes	20%	100 years

## 2.5. Securities issued by corporate organisations

	* Minimum Credit Criteria	Liquidity risk	Market risk	Max % of total investments	Max. maturity period
Certificates of deposit issued by banks and building	*Short-term F1, A1, P1, Long-term A	Sale T+1	yes	20%	1 year
Commercial paper other	* Short-term F1, A1, P1, Long-term A	Sale T+1	yes	20%	90 days
Corporate Bonds other	* Short-term F1, A1, P1, Long-term A	Sale T+3	yes	20%	75 years
Floating Rate Notes	* Long-term A	Sale T+1	yes	20%	75 years

**Accounting treatment of investments.** The accounting treatment may differ from the underlying cash transactions arising from investment decisions made by this Council. To ensure that the Council is protected from any adverse revenue impact, which may arise from these differences, we will review the accounting implications of new transactions before they are undertaken.

## 2.6. Other

	* Minimum Credit Criteria	Liquidity risk	Market risk	Max % of total investments	Max. maturity period
Property Funds	-	T+4	Yes	20%	30 years
Diversified Growth Funds	-	T+4	Yes	20%	30 years
Enhanced Yield Debt Strategies or Multi Asset Funds	-	T+4	Yes	20%	30 years
Infrastructure Equity	-	T+4	Yes	20%	50 years
Illiquid or Private Debt Funds	-	T+4	Yes	20%	30 years
Secured Income/Secured Finance		T+4	Yes	20%	30 years

It should be noted that the external fund managers appointed to manage the Council's managed fund portfolios are authorised through agreed investment guidelines to hold permitted investments in the form of non-treasury investments as described in Appendix 6 to this strategy document i.e. equity shares, unit trusts and bond holdings.

## 7. Permitted Investments – Non Treasury Investments

Definition of non-treasury investments

Regulation 9 adds to the normal definition of investments the following categories:-

- a. All shareholding, unit holding and bond holding, including those in a local authority owned company, is an investment.
- b. Loans to a local authority company or other entity formed by a local authority to deliver services, is an investment.
- c. Loans made to third parties are investments.
- d. Investment property is an investment.

However, the following loans are excluded from the definition of investments:

Loans made by a local authority to another authority or harbour authority using powers contained in Schedule 3, paragraph 10 or 11 of the Local Government (Scotland) Act 1975.

Regulation 24. A local authority shall state the limits for the amounts which, at any time during the financial year, may be invested in each type of permitted investment, such limit being applied when the investment is made. The limits may be defined by reference to a sum of money or a percentage of the local authority's overall investments, or both. A local authority may state that a permitted investment is unlimited. Where a limit is not placed on any type of permitted investment the risk assessment must support that categorisation and an explanation provided as to why an unlimited categorisation is recommended.

**Regulation 25.** The local authority should identify for each type of permitted investment the objectives of that type of investment. Further, the local authority should identify the treasury risks associated with each type of investment, together with the controls put into place to limit those risks. Treasury risks include credit or security risk of default, liquidity risk – the risks associated with committing funds to longer term investments and market risk – the effect of market prices on investment value.

**Regulation 32.** The Strategy shall include details of the maximum value and maximum periods for which funds may prudently be invested. The Strategy shall set out the local authority objectives for holding longer term investments. The Strategy shall also refer to the procedures for reviewing the holding of longer term investments particularly those investments held in properties, shareholdings in companies or joint ventures.

External fund managers appointed to manage the Council's managed fund portfolios are authorised through agreed investment guidelines to hold permitted investments in the form of non-treasury investments as defined above i.e. equity shares, unit trusts and bond holdings.

Under current investment guidelines fund managers are authorised to hold up to 100% of the managed funds either in the form of bonds, equities, property or unit trusts including collective investment vehicles such as diversified growth and multi asset fund investments.

Each type of permitted investment has been detailed in Table 2 above, as part of the permitted investments for use by external cash and managed fund managers.

The Consent includes as an investment any loan issued to a local authority company or other entity formed by a local authority to deliver services, or a third party, subject to a maximum amount of £25M and a maximum duration of up to 30 years.

The Consent includes as an investment any investment property up to a maximum value of £10M per investment and a maximum duration of up to 30 years.

In such cases, individual requests will be considered by the Investment Sub-Committee as a potential investment opportunity on commercial terms in the first instance, and thereafter be the subject of due diligence exercise, if supported in principle.

Such loans and property investments are often made for service reasons and for which specific statutory provision exists. Where this is the case, the relevant Services Committee will give consideration to such requests, which may include for example loans at an interest rate below the market rate subject to the state aid implications being addressed.

All loans to third parties are classified as investments for the purposes of the Consent. Where the loan is advanced at less than a market interest rate there is an associated loss of investment return which would otherwise have been earned on these monies. Annual strategies and reports will recognise all loans to third parties as investments. In such cases, these loans will be categorised, identifying the service reason together with details of those loans carrying a below market interest rate and the impact these advances have on investment returns in future reports.

## 5.5. Treasury Management Practice (TMP1): Credit and Counterparty Risk Management

Orkney Islands Council, including Strategic Reserve Fund, Charitable and Common Good Funds Permitted Investments, Associated Controls and Limits

Type of Investment	Treasury Risks	Mitigating Controls	Council Limits	Common Good Limits
<b>Cash type instruments</b>				
a. Deposits with the Debt Management Account Facility (UK Government) ( <b>Very low risk</b> )	This is a deposit with the UK Government and as such counterparty and liquidity risk is very low, and there is no risk to value. Deposits can be between overnight and 6 months.	Little mitigating controls required. As this is a UK Government investment the monetary limit is unlimited to allow for a safe haven for investments.	100%, maximum 6 months.	100%, maximum 6 months.
b. Deposits with other local authorities or public bodies ( <b>Very low risk</b> )	These are considered quasi-UK Government debt and as such counterparty risk is very low, and there is no risk to value. Liquidity may present a problem as deposits can only be broken with the agreement of the counterparty, and penalties can apply.  Deposits with other non-local authority bodies will be restricted to the overall credit rating criteria.	Little mitigating controls required for local authority deposits, as this is a quasi-UK Government investment.  Non- local authority deposits will follow the approved credit rating criteria.	100% and maximum 2 years.	100% and maximum 2 years.
c. Money Market Funds (MMFs) (LVNAV) ( <b>Low to very low risk</b> )	Pooled cash investment vehicle which provides very low counterparty, liquidity and market risk. These will primarily be used as liquidity instruments.	Funds will only be used where the MMFs has a "AAA" rated status from either Fitch, Moody's or Standard and Poor's.	20%	20%

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Type of Investment	Treasury Risks	Mitigating Controls	Council Limits	Common Good Limits
d. Ultra-short dated bond funds ( <b>low risk</b> )	Pooled cash investment vehicle which provides very low counterparty, liquidity and market risk. These will primarily be used as liquidity instruments.	Funds will only be used where they have a “AAA” rated status from either Fitch, Moody’s or Standard and Poor’s.	20%	20%
e. Call account deposit accounts with financial institutions (banks and building societies) ( <b>Low risk depending on credit rating</b> )	These tend to be low risk investments but will exhibit higher risks than categories (a), (b) and (c) above. Whilst there is no risk to value with these types of investments, liquidity is high, and investments can be returned at short notice.	The counterparty selection criteria approved above restricts lending only to high quality counterparties, measured primarily by credit ratings from Fitch, Moody’s and Standard and Poor’s. Day to day investment dealing with these criteria will be further strengthened by use of additional market intelligence.	As shown in the counterparty section criteria above.	As shown in the counterparty section criteria above.
f. Term deposits with financial institutions (banks and building societies) ( <b>Low to medium risk depending on period &amp; credit rating</b> )	These tend to be low risk investments but will exhibit higher risks than categories (a), (b) and (c) above. Whilst there is no risk to value with these types of investments, liquidity is low and term deposits can only be broken with the agreement of the counterparty, and penalties may apply.	The counterparty selection criteria approved above restricts lending only to high quality counterparties, measured primarily by credit ratings from Fitch, Moody’s and Standard and Poor’s. Day to day investment dealing with these criteria will be further strengthened by use of additional market intelligence.	As shown in the counterparty section criteria above.	As shown in the counterparty section criteria above.

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Type of Investment	Treasury Risks	Mitigating Controls	Council Limits	Common Good Limits
g. Government Gilts and Treasury Bills ( <b>Very low risk</b> )	These are marketable securities issued by the UK Government and as such counterparty and liquidity risk is very low, although there is potential risk to value arising from an adverse movement in interest rates (no loss if these are held to maturity).	Little counterparty mitigating controls are required, as this is a UK Government investment. The potential for capital loss will be reduced by limiting the maximum monetary and time exposures.	20%, maximum 100 years.	20%, maximum 100 years.
h. Certificates of deposits with financial institutions ( <b>Low risk</b> )	These are short dated marketable securities issued by financial institutions and as such counterparty risk is low but will exhibit higher risks than categories (a), (b) and (c) above. There is risk to value of capital loss arising from selling ahead of maturity if combined with an adverse movement in interest rates (no loss if these are held to maturity). Liquidity risk will normally be low.	The counterparty selection criteria approved above restricts lending only to high quality counterparties, measured primarily by credit ratings from Fitch, Moody's and Standard and Poor's. Day to day investment dealing with these criteria will be further strengthened by the use of additional market intelligence.	20% and maximum 75 years.	20% and maximum 75 years.
i. Structured deposit facilities with banks and building societies (escalating rates, de-escalating rates etc.) ( <b>Low to medium risk depending on period &amp; credit rating</b> )	These tend to be medium to low risk investments but will exhibit higher risks than categories (a), (b) and (c) above. Whilst there is no risk to value with these types of investments, liquidity is very low, and investments can only be broken with the agreement of the counterparty (penalties may apply).	The counterparty selection criteria approved above restricts lending only to high quality counterparties, measured primarily by credit ratings from Fitch, Moody's and Standard and Poor's. Day to day investment dealing with these criteria will be further strengthened by the use of additional market intelligence.	As shown in the counterparty section criteria above.	As shown in the counterparty section criteria above.

Type of Investment	Treasury Risks	Mitigating Controls	Council Limits	Common Good Limits
j. Corporate bonds <b>(Medium to high risk depending on period &amp; credit rating)</b>	These are marketable securities issued by financial and corporate institutions. Counterparty risk will vary and there is risk to value of capital loss arising from selling ahead of maturity if combined with an adverse movement in interest rates. Liquidity risk will be low.	<p>The counterparty selection criteria approved above restricts lending only to high quality counterparties, measured primarily by credit ratings from Fitch, Moody's and Standard and Poor's. Corporate bonds will be restricted to those meeting the base criteria.</p> <p>Day to day investment dealing with these criteria will be further strengthened by the use of additional market intelligence.</p>	20% and maximum 75 years.	20% and maximum 75 years.

Type of Investment	Treasury Risks	Mitigating Controls	Council Limits	Common Good Limits
<b>Other types of investments</b>				
a. Investment properties	These are non-service properties which are being held pending disposal or for a longer-term rental income stream. These are highly illiquid assets with high risk to value (the potential for property prices to fall or for rental voids).	In larger investment portfolios some small allocation of property-based investment may counterbalance/compliment the wider cash portfolio.  Property holding will be re-valued regularly and reported annually with gross and net rental streams.	£10M and maximum of 30 years	n/a
b. Loans to third parties, including soft loans	These are service investments either at market rates of interest or below market rates (soft loans). These types of investments may exhibit credit risk and are likely to be highly illiquid.	Each third-party loan requires Member approval, and each application is supported by the service rational behind the loan and the likelihood of partial or full default.	£5M and maximum 30 years.	n/a
c. Loans to a local authority company	These are service investments either at market rates of interest or below market rates (soft loans). These types of investments may exhibit credit risk and are likely to be highly illiquid.	Each loan to a local authority company requires Member approval and each application is supported by the service rational behind the loan and the likelihood of partial or full default.	£25M and maximum 30 years.	n/a
d. Shareholdings in a local authority company	These are service investments which may exhibit market risk and are likely to be highly illiquid.	Each equity investment in a local authority company requires Member approval and each application will be supported by the service rational behind the investment and the likelihood of loss.	100%	n/a

Type of Investment	Treasury Risks	Mitigating Controls	Council Limits	Common Good Limits
e. Non-local authority shareholdings	These are non-service investments which may exhibit market risk, be only considered for longer term investments and will be likely to be liquid.	Any non-service equity investment will require separate Member approval and each application will be supported by the service rational behind the investment and the likelihood of loss.	Specific managed fund investment guidelines	n/a
f. Local Authority Mortgage Scheme (LAMS)	These are service investments at market rates of interest. Under this scheme the Council would be required to place up to £5M on deposit with a participating bank for a period of between 3 to 5 years.	The counterparty selection criteria approved above restricts lending only to high quality counterparties, measured primarily by credit ratings from Fitch, Moody's and Standard and Poor's.	£5M and maximum 5 years.	n/a

**The monitoring of investment counterparties** - The status of counterparties will be monitored regularly. The Council receives credit rating and market information from Link, including when ratings change, and counterparties are checked promptly. On occasion ratings may be downgraded when an investment has already been made. The criteria used are such that a minor downgrading should not affect the full receipt of the principal and interest. Any counterparty failing to meet the criteria will be removed from the list immediately by the Director of Finance, and if required new counterparties which meet the criteria will be added to the list.

**Use of External Fund Managers** – It is the Council's policy to use external fund managers for part of its investment portfolio. The fund managers are contractually committed to keep to the Council's investment strategy. The limits for permitted investments have been established in consultation with external fund managers and are consistent with the terms of their appointment. The performance of each manager is reviewed at least quarterly by the Head of Finance and the managers are contractually required to comply with the annual investment strategy.

## 5.6. Approved Countries for Investments

This list is based on those countries which have sovereign ratings of AA- or higher, (we show the lowest rating from Fitch, Moody's and S&P) and also, (except - at the time of writing - for Hong Kong, Norway and Luxembourg), have banks operating in sterling markets which have credit ratings of green or above in the Link credit worthiness service.

### *Based on lowest available rating*

#### AAA

- Australia
- Denmark
- Germany
- Luxembourg
- Netherlands
- Norway
- Singapore
- Sweden
- Switzerland

#### AA+

- Canada
- Finland
- U.S.A.

#### AA

- Abu Dhabi (UAE)
- France

#### AA-

- Belgium
- Hong Kong
- Qatar
- **U.K.**

## **5.7. Treasury Management Scheme of Delegation**

### **1. Full Council**

- receiving and reviewing reports on treasury management policies, practices and activities;
- approval of annual strategy.

### **2. Policy and Resources Committee**

- approval of/amendments to the organisation's adopted clauses, treasury management policy statement and treasury management practices;
- budget consideration and approval;
- approval of the division of responsibilities;

### **3. Investments Sub-committee**

- reviewing the treasury management policy and procedures and making recommendations to the responsible body.
- receiving and reviewing regular monitoring reports and acting on recommendations;
- approving the selection of external service providers and agreeing terms of appointment.

## **5.8. The Treasury Management Role of The Section 95 Officer**

### **The S95 (responsible) Officer:**

- recommending clauses, treasury management policy/practices for approval, reviewing the same regularly, and monitoring compliance;
- submitting regular treasury management policy reports;
- submitting budgets and budget variations;
- receiving and reviewing management information reports;
- reviewing the performance of the treasury management function;
- ensuring the adequacy of treasury management resources and skills, and the effective division of responsibilities within the treasury management function;
- ensuring the adequacy of internal audit, and liaising with external audit;
- recommending the appointment of external service providers.



## **Policy on Covert Surveillance**

All our written information can be made available, on request, in a range of different formats and languages. If you would like this document in any other language or format, please contact Corporate Services on 01856873535 or email [corporateservices@orkney.gov.uk](mailto:corporateservices@orkney.gov.uk).



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## **1. Introduction**

### **1.1.**

In some circumstances, it may be necessary for council employees where evidence cannot be obtained in any other way, in the course of their duties, to make observations of a person or persons in a covert manner, i.e. without that person's knowledge. By their nature, actions of this sort are potentially intrusive (in the ordinary sense of the word) and may give rise to legal challenge as a potential breach of Article 8 of the European Convention on Human Rights and the Human Rights Act 1998 ("the right to respect for private and family life").

### **1.2.**

The Regulation of Investigatory Powers Act (2000) [RIPA], the Regulation of Investigatory Powers (Scotland) Act (2000) [RIP(S)A] and the Investigatory Powers Act 2016 ("the Acts") together provide a legal framework for covert surveillance by public authorities and an independent inspection regime to monitor these activities.

### **1.3.**

The Investigatory Powers Act 2016 establishes an Investigatory Powers Commission whose remit includes providing comprehensive oversight of the use of powers to which this Policy applies.

### **1.4.**

The Investigatory Powers Tribunal, established in terms of RIPA, has jurisdiction to investigate and determine complaints against public authority use of investigatory powers.

### **1.5.**

The Chief Executive is the RIPSAs Senior Responsible Officer, who has oversight and scrutiny in relation to the RIPSAs function and ensures the integrity of the processes in place and acts as the main point of contact with the Investigatory Powers Commission. In the Chief Executive's absence, the Corporate Director for Strategy, Performance and Business Solutions will deputise.

### **1.6.**

A detailed procedure has been developed for Covert Surveillance ("the Procedure").

## **2. Objective**

The objective of this policy is to ensure that all covert surveillance by council employees is carried out effectively, while remaining in accordance with the law. It should be read in conjunction with the Scottish Government's Code of Practice on Covert Surveillance and Property Interference ("the Code of Practice").

### **3. Scope of the Policy**

This Policy applies in all cases where “directed surveillance” is being planned or carried out. Directed surveillance is defined in section 1(2) of the RIP(S) Act as surveillance, which is covert but not intrusive, and undertaken:

#### **3.1.**

For the purposes of a specific investigation or specific operation.

#### **3.2.**

In such a manner as is likely to result in the obtaining of private information about a person (whether or not one specifically identified for the purposes of the investigation or operation).

#### **3.3.**

Otherwise than by way of an immediate response to events or circumstances the nature of which is such that it would not be reasonably practicable for an authorisation under the RIP(S) Act to be sought for the carrying out of the surveillance. In cases of doubt, the authorisation procedures described below should however be followed.

### **4. Principles of Surveillance**

#### **4.1.**

In planning and carrying out covert surveillance, council employees shall comply with the following principles.

##### **4.1.1.**

Lawful purposes – covert surveillance shall only be carried out where necessary to achieve one or more of the permitted purposes (as defined in the Acts); i.e. it must be:

- For the purpose of preventing or detecting crime or the prevention of disorder.
- In the interest of public safety.
- For the purpose of protecting public health.

Employees carrying out surveillance shall not cause damage to any property or harass any person.

##### **4.1.2.**

Necessity – covert surveillance shall only be undertaken where there is no reasonable and effective alternative way of achieving the desired objective(s).

##### **4.1.3.**

Effectiveness – planned covert surveillance shall be undertaken only by suitably trained or experienced employees, or under their direct supervision.

#### **4.1.4.**

Proportionality – the use and extent of covert surveillance shall be as defined in section 6(2) of the RIP(S) Act – that the authorised surveillance is proportionate to what is sought to be achieved by carrying it out.

#### **4.2.**

Obtaining an authorisation under the RIP(S) Act and the 1997 Act will only ensure that there is a justifiable interference with an individual's Article 8 rights if it is necessary and proportionate for these activities to take place. The RIP(S)A first requires that the person granting an authorisation is satisfied that the authorisation is necessary in the circumstances of the particular case for one or more of the statutory grounds in section 6(3) of the RIP(S) Act for directed surveillance and in section 10(2)(a) of the RIP(S) Act for intrusive surveillance.

#### **4.3.**

Then, if the activities are necessary, the person granting the authorisation must be satisfied that they are proportionate to what is sought to be achieved by carrying them out. This involves balancing the intrusiveness of the activity on the target and others who might be affected by it against the need for the activity in operational terms. The activity will not be proportionate if it is excessive in the circumstances of the case or if the information which is sought could reasonably be obtained by other less intrusive means. All such activity should be carefully managed to meet the objective in question and must not be arbitrary or unfair.

#### **4.4.**

Intrusive surveillance – no activity shall be undertaken that comes within the definition of "Intrusive Surveillance", as defined in section 1(3) of the RIP(S) Act as covert surveillance that:

##### **4.4.1.**

Is carried out in relation to anything taking place on any residential premises or in any private vehicle.

##### **4.4.2.**

Involves the presence of an individual on the premises or in the vehicle or is carried out by means of a surveillance device.

#### **4.5.**

Collateral intrusion – reasonable steps shall be taken to minimise the acquisition of information that is not directly necessary for the purposes of the investigation or operation being carried out.

#### **4.6.**

Before authorising surveillance, the authorising officer should also take into account the risk of intrusion into the privacy of persons other than those who are directly the subjects of the investigation or operation (collateral intrusion). Measures should be

taken, wherever practicable, to avoid or minimise unnecessary intrusion into the lives of those not directly connected with the investigation or operation.

#### **4.7.**

Authorisation – all directed surveillance shall be authorised in accordance with the Procedure.

## **5. The Authorisation Process**

### **5.1.**

The statutory purposes for which covert surveillance authorisations may be issued must reflect the functions of the Council.

### **5.2.**

Applications for directed surveillance where knowledge of confidential information is likely to be acquired shall be authorised by a Corporate Director (other than the Corporate Director for Strategy, Performance and Business Solutions who has a role of deputising for the Senior Responsible Officer) and in their absence the Head of Legal and Governance.

### **5.3.**

A Corporate Director (or in their absence) the Head of Legal and Governance should be designated officers to give the necessary written authorisation for the use or conduct of covert surveillance. In urgent or exceptional circumstances written or oral authorisation might be given by an officer of Chief Officer grade.

### **5.4.**

In terms of the Scottish Government's Code of Practice a written authorisation granted by an authorising officer will cease to have effect (unless renewed) at the end of a period of three months beginning with the day on which it took effect. Urgent oral authorisations granted by a person who is entitled to act only in urgent cases will unless renewed, cease to have effect after seventy-two hours, beginning with the time when the authorisation was granted or renewed. Further details are contained in the Procedure and Chapter 5 of the Code of Practice.

## **6. Documents**

### **6.1.**

The Procedure in implementation of this policy uses the following documents:

#### **6.1.1. Covert Surveillance – Written Authorisation**

This should be completed by the applicant in all cases not covered by oral authorisation (below). It is effective from the time that approval is given.

#### **6.1.2. Covert Surveillance – Oral Authorisation**

This is a record of an oral authorisation, which should be completed by the applicant. It should be used only in cases where the urgency of the situation makes the

submission of a written application impractical. The authorising officer should write out a separate authorisation as soon as practical.

### **6.1.3. Covert Surveillance – Renewal of Authorisation**

This should be completed by the applicant in all cases where surveillance is required beyond the previously authorised period (including previous renewals) and thereafter signed by the authorising officer.

### **6.1.4. Covert Surveillance – Cancellation**

This should be completed by both the applicant and the authorising officer when the authorisation ceases to be either necessary or appropriate.

## **7. Security and Retention of Documents**

### **7.1.**

Documents created under this procedure are highly confidential and shall be treated as such. Services must ensure that arrangements are in place for the handling, storage and destruction of material obtained through the use of covert surveillance. Authorising officers must ensure compliance with the requirements of data protection legislation, the Procedure for Authorisation of Covert Surveillance and Chapter 8 of the Scottish Government's Code of Practice on Covert Surveillance and Property Interference.

### **7.2.**

The Head of Legal and Governance shall maintain a register of current and past authorisations. Applicant officers shall ensure that sufficient information is provided to keep this up to date.

## **8. Central Record of all Authorisations**

### **8.1.**

A centrally retrievable record of all authorisations should be held by the Head of Legal and Governance and be regularly updated whenever an authorisation is granted, renewed or cancelled. The record should be made available to the relevant Inspector from the Investigatory Powers Commission, upon request. These records should be retained for a period of five years from the ending of the authorisation and should contain the following information:

- The type of authorisation.
- The date the authorisation was given.
- Name and rank/grade of the authorising officer.
- The unique reference number (URN) of the investigation or operation.
- The title of the investigation or operation, including a brief description and names of subjects, if known.
- Whether the urgency provisions were used, and if so why.
- If the authorisation is renewed, when it was renewed and who authorised the renewal, including the name and rank/grade of the authorising officer.

- Whether the investigation or operations is likely to result in obtaining confidential information as defined in this code of practice.
- The date the authorisation was cancelled.

## **8.2.**

In all cases, Services should maintain for a period of three years the following documentation which need not form part of the centrally retrievable record:

- A copy of the application and a copy of the authorisation together with any supplementary documentation and notification of the approval given by the authorising officer.
- A record of the period over which the surveillance has taken place.
- A record of the result of each review of the authorisation.
- A copy of any renewal of an authorisation, together with the supporting documentation submitted when the renewal was requested.
- The date and time when any instruction was given by the authorising officer.

## Document control Sheet

### Review / Approval History

Date	Name	Position	Version Approved
1 May 2018	Gavin Mitchell	Head of Legal Services	V1.2– approved at General Meeting of the Council
11 May 2020	Gavin Mitchell	Head of Legal Services	V1.3
5 May 2021	Gavin Mitchell	Head of Legal Services	V1.3

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Date	Author	Version	Status	Reason
11 May 2020	Gavin Mitchell	V1.3	Final	Reflect observations contained in IPC Inspection Report





## **Procedure for Authorisation of Covert Surveillance**

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## **1. Foreword**

### **1.1.**

The use of surveillance to provide information is a valuable resource for the protection of the public and the maintenance of law and order. In order that local authorities and law enforcement agencies are able to discharge their responsibilities, use is made of unaided surveillance and surveillance devices. Where this surveillance is covert i.e. the subject of the surveillance is unaware that it is taking place, then it must be authorised to ensure that it is lawful. CCTV systems in the main will not be subject to this procedure as they are 'overt' forms of surveillance. However where CCTV is used as part of a pre-planned operation of surveillance then authorisation should be obtained. This includes circumstances where such use is sought by the Council or by a third party such as the Police. For the use of CCTV for covert surveillance, officers should refer to paragraph 10 of the Council's CCTV Code of Practice.

### **1.2.**

A legal framework ensures that the use of surveillance is subject to an authorisation, review and cancellation procedure.

## **2. Implications of this Procedure**

### **2.1.**

In some circumstances, it may be necessary for Orkney Islands Council employees, in the course of their duties, to make observations of a person or person(s) in a covert manner, i.e. without that person's knowledge. By their nature, actions of this sort may constitute an interference with that person's right to privacy and may give rise to legal challenge as a potential breach of Article 8 of the European Convention on Human Rights and the Human Rights Act 1998 ('the right to respect for private and family life').

### **2.2.**

The Regulation of Investigatory Powers Act (2000) [RIPA], the Regulation of Investigatory Powers (Scotland) Act (2000) [RIP(S) A] and the Investigatory Powers Act 2016 ('the Acts') together provide a legal framework for covert surveillance activities by public authorities (including local authorities) and an independent inspection regime to monitor these activities.

### **2.3.**

Whilst the Acts do not impose a requirement for local authorities to seek or obtain an authorisation, where one is available, Orkney Islands Council employees will adhere to the authorisation procedure before conducting any covert surveillance.

### **2.4.**

Employees of Orkney Islands Council will not carry out intrusive surveillance within the meaning of the Regulation of Investigatory Powers (Scotland) Act 2000. This is surveillance of anything taking place on residential premises or in a private vehicle

that involves the presence of an individual on the premises or in the vehicle or is carried out by means of a surveillance device capable of providing information of the same quality and detail as might be expected to be obtained from a device actually present on the premises or in the house or vehicle.

## **2.5.**

A number of practical examples of the use of directed surveillance are contained in sections 3 and 4 of the Scottish Government's Code of Practice on Covert Surveillance and Property Interference: <https://www.gov.scot/publications/covert-surveillance-property-interference-code-practice/>

## **3. Objective**

### **3.1.**

The objective of this procedure is to ensure that all work involving directed surveillance by Orkney Islands Council employees is carried out effectively, while remaining in accordance with the law. It should be read in conjunction with the Regulation of Investigatory Powers (Scotland) Act 2000 and the Scottish Government's Code of Practice on Covert Surveillance and Property Interference ("the Code of Practice").

### **3.2.**

Definitions:

#### **3.2.1.**

Covert surveillance means surveillance that is carried out in a manner calculated to ensure that the persons subject to the surveillance are unaware that it is taking place.

#### **3.2.2.**

Authorising officer is the person who is entitled to give an authorisation for directed surveillance in accordance with section 6 of the Regulation of Investigatory Powers (Scotland) Act 2000.

#### **3.2.3.**

Private Information includes information about a person relating to his private or family life.

#### **3.2.4.**

Residential premises means any premises occupied or used, however temporarily, for residential purposes or otherwise as living accommodation.

#### **3.2.5.**

Private vehicle means any vehicle that is used primarily for the private purpose of the person who owns it or of a person otherwise having the right to use it. This does not include a person whose right to use the vehicle derives only from his having paid, or

undertaken to pay, for the use of the vehicle and its driver for a particular journey. A vehicle includes any vessel, aircraft or hovercraft.

## **4. Scope of the Procedure**

### **4.1.**

This procedure applies in all cases where 'direct surveillance' is being planned or carried out. Direct surveillance is defined in the Code of Practice as surveillance undertaken "for the purposes of a specific investigation or operation" and "in such a manner as is likely to result in the obtaining of private information about a person."

### **4.2.**

The procedure does not apply to:

- Ad-hoc covert observations that do not involve the systematic surveillance of specific person(s).
- Observations that are not carried out covertly.
- Unplanned observations made as an immediate response to events.

Particular attention should be made to Social Media Networking Sites. A separate policy is in place in connection with surveillance through social media and should be consulted as necessary.

### **4.3.**

In cases of doubt, the authorisation procedures described below should be followed.

## **5. Principles of Surveillance**

In planning and carrying out covert surveillance, Orkney Islands Council employees shall comply with the following principles.

### **5.1. Lawful purposes**

Directed surveillance shall only be carried out where necessary to achieve one or more of the permitted purposes (as defined in the Acts) namely:

- For the purpose of preventing or detecting crime or the prevention of disorder.
- In the interests of public safety.
- For the purpose of protecting public health.

Employees carrying out surveillance shall not interfere with any property or harass any person.

### **5.2. Confidential material**

#### **5.2.1.**

Particular care should be taken with applications where a significant risk of acquiring confidential material has been identified.

**5.2.2.**

Confidential material consists of:

- Matters subject to legal privilege for example between professional legal advisor and client), in terms of the Regulation of Investigatory Powers (Modification of the Authorisation Provisions: Legal Consultations) (Scotland) Order 2015 directed surveillance carried out on premises in respect of matters subject to legal privilege is to be treated as intrusive surveillance and can only be carried out by the police.
- Confidential personal information (for example relating to a person's physical or mental health).
- Confidential journalistic material.

**6. The Authorisation Process****6.1.**

Applications for directed surveillance will be authorised by a Corporate Director (other than the Corporate Director for Strategy, Performance and Business Solutions who has a role of deputising for the Senior Responsible Officer) or in their absence the Head of Legal and Governance. In urgent or exceptional circumstances written or oral authorisation might be given by an officer of Chief Officer grade who has not been designated which should as soon as practicable be followed up by a written authorisation from the relevant official.

**6.2.**

Authorising officers within the meaning of this procedure should avoid authorising their own activities wherever possible and only do so in exceptional circumstances.

**6.3.**

All applications for directed surveillance authorisations will be made on form OIC/auth/ds. The applicant in all cases should complete this. In urgent cases the authorising officer may give an oral authorisation. A statement that the authorising officer has expressly granted the authorisation should be recorded on the form or, if that is not possible, in the applicant's notebook or diary. This should be done by the person to whom the authorising officer spoke (normally the applicant) but should later be endorsed by the authorising officer. The authorising officer should write out a separate authorisation as soon as practical.

**6.4.**

All applications for directed surveillance renewals will be made on form OIC/ren/ds. The applicant in all cases should complete this where the surveillance requires to continue beyond the previously authorised period (including previous renewals). The renewal of the authorisation should be considered and signed by the authorising officer.

**6.5.**

Where authorisation ceases to be either necessary or appropriate the authorising officer will cancel an authorisation using form OIC/can.ds submitted by the applicant.

**6.6.**

Forms, codes or practice and supplementary material will be available from the Council Intranet.

**6.7.**

Any person giving an authorisation for the use of directed surveillance must be satisfied that:

- Account has been taken of the likely degree of intrusion into the privacy of persons other than those directly implicated in the operation or investigation ('collateral intrusion'). Measures must be taken, wherever practicable, to avoid unnecessary intrusion into the lives of those affected by collateral intrusion.
- The authorisation is necessary (see below).
- The authorised surveillance is proportionate (see below).
- In particular when Environmental Health Investigators deploy DAT noise level monitors to assist in any enforcement action in relation to noisy neighbour complaints. These cases should be reviewed on a case by case basis and if necessary the appropriate authorisation sought.
- In relation to aerial surveillance, using, for example, drones, the same considerations should be made to determine whether a directed surveillance authorisation is appropriate. In considering whether the surveillance should be regarded as covert, account should be taken of the reduced visibility of a craft or device at altitude.

**6.8. Necessity**

Surveillance operations shall only be undertaken where an authorisation is necessary on grounds falling within S.6(3) of RIP(S)A if it is necessary- (a) for the purpose of preventing or detecting crime or of preventing disorder; (b) in the interests of public safety; or (c) for the purpose of protecting public health.

**6.9. Effectiveness**

Surveillance operations shall be undertaken only by suitably trained or experienced employees, or under their direct supervision.

**6.10. Proportionality**

The use of surveillance shall be proportionate in terms of S6(2)(b) of RIP(S)A to what is sought to be achieved by carrying it out. Further there must be no other reasonable and effective way of achieving the desired objective(s).

A potential model answer would make clear that the following elements of proportionality had been fully considered:

- balancing the size and scope of the operation against the gravity and extent of the perceived mischief.
- explaining how and why the methods to be adopted will cause the least possible intrusion on the target and others.
- that the activity is an appropriate use of the legislation and the only reasonable way, having considered all others, of obtaining the necessary result.
- providing evidence of other methods considered and why they were not implemented.

## **6.11. Authorisation**

### **6.11.1.**

All directed surveillance shall be authorised in accordance with this procedure.

The authorising officer must take into account the following issues when considering an application:

- who is to conduct the operation.
- what is being proposed.
- where and when the proposed operation will take place.
- whether it is necessary and proportionate.

### **6.11.2.**

Underlying all of these considerations is the requirement for the authorising officer to be satisfied that the terms of the legislation and relevant guidance are met.

### **6.11.3.**

The case for the authorisation should be presented in the application in a fair and balanced way. In particular, all reasonable efforts should be made to take account of information which supports or weakens the case for the authorisation.

### **6.11.4.**

The authorising officer should clearly complete the “Authorising Officer’s Statement” on the application form, preferably in their own hand, and articulate in their own words what activity they are authorising.

**The Authorising Officer must state explicitly what is being authorised.**

### **6.11.5.**

The Authorising Officer must describe and specify what they are granting. This may or may not be the same as requested by the applicant. For the benefit of those operating under the terms of an authorisation, or any person who may subsequently review or inspect an authorisation, it is essential to produce, with clarity, a description of that which is being authorised (i.e. who, what, where, when and how). The Authorising Officer should as a matter of routine state explicitly and in their own words what is being authorised, and against which subjects, property or location.



**6.11.6.**

Mere reference to the terms of the application is inadequate. The Authorising Officer should specify the details of how and why they consider the application to be both necessary and proportionate.

**Authorisation different from application.****6.11.7.**

If an application fails to include an element in the proposed activity which in the opinion of the Authorising Officer should have been included (for example, the return of something to the place from which it is to be taken for some specified activity), or which is subsequently requested orally by the applicant, it may be included in the authorisation; if so, a note should be added explaining why. Conversely, if an Authorising Officer does not authorise all that was requested, a note should be added explaining why. This requirement applies equally to intrusive surveillance, property interference, directed surveillance and CHIS authorisations.

**The Senior Responsible Officer should avoid granting authorisations.****6.11.8.**

The role of the Senior Responsible Officer is to oversee the competence of Authorising Officers and the processes in use in their public authority. Whilst legislation does not preclude their use as an Authorising Officer, it is unlikely that they would be regarded as objective if they oversee their own authorisations.

**6.11.9.**

Applications for covert surveillance that may result in the acquisition of knowledge of matters subject to legal privilege within the meaning given in paragraph 1.1 of the Code of Practice should state whether the covert surveillance is likely or intending to obtain knowledge of matters subject to legal privilege. Where covert surveillance is likely or intended to result in the acquisition of knowledge of matters subject to legal privilege, an authorisation shall only be granted or approved if the authorising officer is satisfied that there are exceptional and compelling circumstances that make the authorisation necessary.

**6.11.10.**

Where the surveillance is not intended to result in the acquisition of knowledge of matters subject to legal privilege, such exceptional and compelling circumstances may arise in the interests of preventing or detecting serious crime.

**6.11.11.**

Where the surveillance is intended to result in the acquisition of knowledge of matters subject to legal privilege, such circumstances will arise only in a very restricted range of cases, such as where there is a threat to life or limb and the surveillance is reasonably regarded as likely to yield intelligence necessary to counter the threat.

## **7. Time Periods – Authorisations**

### **7.1.**

Urgent oral authorisations granted by a person who is entitled to act only in urgent cases unless renewed, cease to have effect after seventy-two hours, beginning with the time when the authorisation was granted or renewed.

### **7.2.**

In terms of the Scottish Government's Code of Practice a written authorisation granted by an authorising officer will cease to have effect (unless renewed) at the end of a period of three months beginning with the day on which it took effect.

## **8. Time Periods – Renewals**

### **8.1.**

If at any time before an authorisation would cease to have effect, the authorising officer considers it necessary and proportionate for the authorisation to continue for the purpose for which it was given, the authorisation may be renewed in writing for a further period of three months. Renewals may also be granted orally in urgent cases and last for a period of seventy-two hours. Applications should only be made shortly before the authorisation is due to expire.

### **8.2.**

Any person entitled to authorise may renew authorisations. They may be renewed more than once, provided they continue to meet the criteria for authorisation.

## **9. Review**

### **9.1.**

The Authorising Officer shall keep all authorisations under constant review and an authorisation will be cancelled immediately the requirement for surveillance ceases. The Authorising Officer should set review dates and ensure that all reviews are carried out with the review period tailored to meet the particular requirements of the investigation. Details of the review and the decision reached shall be noted on the Review Form.

### **9.2.**

During a review, the authorising officer who granted or last renewed the authorisation may amend specific aspects of the authorisation, for example, to cease directed surveillance against one of a number of named subjects or to discontinue the use of a particular tactic.

### **9.3.**

Particular attention should be given to the need to review authorisations frequently where they involve a high level of intrusion into private life or significant collateral intrusion, or particularly sensitive information is likely to be obtained. At the point when the Council is considering applying for an authorisation, it must have regard to

whether the level of protection to be applied in relation to information obtained under the warrant or authorisation is higher because of the particular sensitivity of that information.

#### **9.4.**

In each case, unless specified by the Investigatory Powers Commission, the frequency of reviews should be determined by the Council. This should be as frequently as is considered necessary and proportionate.

#### **9.5.**

In the event that there are any significant and substantive changes to the nature of the operation during the currency of the authorisation, the Council should consider whether it is necessary to apply for a new authorisation.

### **10. Cancellation**

#### **10.1.**

Those acting under an authorisation must keep their authorisations under review and notify the authorising officer if they consider that the authorisation is no longer necessary or proportionate, and so should therefore be cancelled.

#### **10.2.**

The authorising officer and the applicant must cancel an authorisation if he/she is satisfied that the directed surveillance no longer satisfies the criteria for authorisation.

### **11. Record Keeping**

Each Service or discrete location within Services must maintain a record of all applications for authorisation (including refusals), renewals, reviews and cancellations. A centrally retrievable record of all authorisations will be held by Legal and Governance and be regularly updated whenever an authorisation is granted, renewed or cancelled. An application for authorisation cannot proceed until a unique reference number (URN) has been issued by Legal and Governance and Legal and Governance must have sight of each and every application. The central register should be kept up-to-date at all times. The record should be made available to the relevant Inspector from the Investigatory Powers Commission, upon request. These records should be retained for a period of at least five years. Orkney Islands Council Policy for Authorisation of Covert Surveillance contains further details at Paragraph 8 thereof.

### **12. Security and Retention of Documents**

#### **12.1.**

Documents created under this procedure are highly confidential and shall be treated as such. Services shall make proper arrangements for their retention, security and destruction, in accordance with the requirements of data protection legislation and

Chapter 8 of the Scottish Government's Code of Practice on Covert Surveillance and Property Interference.

## **12.2.**

Dissemination or copying of material must be limited to the minimum necessary for authorised purposes. The purposes are authorised if the material:

### **12.2.1.**

Is, or is likely to become, necessary for any of the statutory purposes set out in RIPSA in relation to covert surveillance or property interference;

### **12.2.2.**

Is necessary for facilitating the carrying out of the functions of public authorities under RIPSA;

### **12.2.3.**

Is necessary for facilitating the carrying out of any functions of the Investigatory Powers Commission or the Investigatory Powers Tribunal;

### **12.2.4.**

Is necessary for the purposes of legal proceedings; or

### **12.2.5.**

Is necessary for the performance of the functions of any person by or under any enactment.

## **12.3.**

Legal and Governance will maintain the Central Register of Authorisations. Authorising officers shall notify Legal and Governance of the grant, renewal or cancellation of any authorisations and the name of the Applicant Officer within 1 working day to ensure the accuracy of the Central Register.

## **12.4.**

The Authorising Officer shall retain the original Authorisation and Renewal Forms until cancelled. On cancellation, the original Application, Renewal and Cancellation forms shall be forwarded to Legal and Governance with the Authorising Officer retaining a copy.

## **12.5.**

The Authorising Officer shall retain the copy forms for a period of three years after cancellation. Legal and Governance will retain the original forms for a period of five years after cancellation. In both cases these will not be destroyed without the authority of the authorising officer if practicable.

### **13. Oversight**

The Investigatory Powers Act 2016 establishes an Investigatory Powers Commission to provide comprehensive oversight of the use of the powers to which this Procedure applies. This oversight includes inspection visits by Inspectors appointed by the Investigatory Powers Commission.

### **14. Complaints**

The Investigatory Powers Tribunal has jurisdiction to investigate and determine complaints against public authority use of investigatory powers. Any complaints in respect of the use by the Council of its powers described in this Procedure should be directed to the Investigatory Powers Tribunal. Full details of how to present a complaint are available on the Tribunal's website – [www.ipt-uk.com](http://www.ipt-uk.com).

## Document control Sheet

### Review / Approval History

Date	Name	Position	Version Approved
1 May 2018	Gavin Mitchell	Head of Legal Services	V1.2– approved at General Meeting of the Council
11 May 2020	Gavin Mitchell	Head of Legal Services	V1.3
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11 May 2020	Gavin Mitchell	V1.3	Final	Reflect observations contained in IPC Inspection Report



## **Policy on Use of Covert Human Intelligence Sources**

All our written information can be made available, on request, in a range of different formats and languages. If you would like this document in any other language or format, please contact Corporate Services on 01856873535 or email [corporateservices@orkney.gov.uk](mailto:corporateservices@orkney.gov.uk).

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## **1. Introduction**

### **1.1.**

In some circumstances, it may be necessary for Orkney Islands Council employees where evidence cannot be obtained in any other way, in the course of their duties, to make use of informants and to conduct 'undercover' operations in a covert manner, i.e. without a person's knowledge. By their nature, actions of this sort may constitute an interference with that person's right to privacy and may give rise to legal challenge as a potential breach of Article 8 of the European Convention on Human Rights and the Human Rights Act 1998 ("the right to respect for private and family life").

### **1.2.**

The Regulation of Investigatory Powers Act (2000) [RIPA], the Regulation of Investigatory Powers (Scotland) Act (2000) [RIP(S)A] and the Investigatory Powers Act 2016 ("the Acts") together provide a legal framework for use of Covert Human Intelligence Sources by public authorities and an independent inspection regime to monitor these activities.

### **1.3.**

The Investigatory Powers Act 2016 establishes an Investigatory Powers Commission whose remit includes providing comprehensive oversight of the use of powers to which this Policy applies.

### **1.4.**

The Investigatory Powers Tribunal, established in terms of RIPA, has jurisdiction to investigate and determine complaints against public authority use of investigatory powers.

### **1.5.**

The Chief Executive is the RIPSAs Senior Responsible Officer, who has oversight and scrutiny in relation to the RIPSAs function and ensures the integrity of the processes in place and acts as the main point of contact with the Investigatory Powers Commission. In the Chief Executive's absence, the Corporate Director for Strategy, Performance and Business Solutions will deputise.

### **1.6.**

A detailed procedure has been developed for Covert Human Intelligence Sources ("the Procedure").

## **2. Objective**

The objective of this Policy is to ensure that all use or conduct of a source by council employees is carried out effectively, while remaining in accordance with the law. It should be read in conjunction with the Scottish Government's Code of Practice on Use of Covert Human Intelligence Sources ("the Code of Practice").

### **3. Scope of the Policy**

#### **3.1.**

This Policy applies in all cases where the use of an undercover officer or source is being planned or carried out. All Officers involved should be suitably trained and experienced.

#### **3.2.**

This Policy does not apply to covert test purchase transactions under existing statutory powers where the officers involved do not establish a personal or other relationship for the purposes stated. As an example the purchase of music CD for subsequent expert examination would not require authorisation but where the intention is to ascertain from the seller where he/she buys suspected fakes, when he/she takes delivery etc. then authorisation should be sought beforehand; or tasks given to persons (whether that person is an employee of the Council or not) to ascertain purely factual information (for example the location of cigarette vending machines in licensed premises).

#### **3.3.**

In terms of Section 1(7) of RIP(S) Act a person is a covert human intelligence source if the person:

1. Establishes or maintains a personal or other relationship with another person for the covert purpose of facilitating the doing of anything falling within paragraph 2 or 3 below.
2. Covertly uses such a relationship to obtain information or to provide access to any information to another person.
3. Covertly discloses information obtained by the use of such a relationship or as a consequence of the existence of such a relationship.

### **4. Principles of the Use and Conduct of a Source**

#### **4.1.**

In planning and carrying out the use of a covert human intelligence sources, council employees shall comply with the following principles.

##### **4.1.1.**

Lawful purposes – the use and conduct of a source shall only be carried out where necessary to achieve one or more of the permitted purposes (as defined in the Acts); i.e. it must be:

1. For the purpose of preventing or detecting crime or the prevention of disorder.
2. In the interest of public safety.
3. For the purpose of protecting public health.

Employees carrying out source work or using sources must be aware that a source has no licence to commit crime.

#### **4.1.2.**

Necessity – An authorisation for the use of a Covert Human Intelligence source is necessary on grounds falling within section 7 (3) of RIP(S)A if it is necessary-(a) for the purpose of preventing or detecting crime or of preventing disorder; (b) in the interests of public safety; or (c) for the purpose of protecting public health.

#### **4.1.3.**

Effectiveness – planned undercover operations shall be undertaken only by suitably trained or experienced employees, or under their direct supervision.

#### **4.1.4.**

Proportionality – the use and extent of a source shall be as defined in section 6(2) of the RIP(S) Act – that the authorised use and conduct of a source is proportionate to what is sought to be achieved by carrying it out.

#### **4.2.**

Obtaining an authorisation under the RIP(S) Act will only ensure that the authorised use or conduct of a source is a justifiable interference with an individual's Article 8 rights if it is necessary and proportionate for the source to be used. The RIP(S) Act first requires that the person granting an authorisation is satisfied that the authorisation is necessary in the circumstances of the particular case for one or more of the statutory grounds in section 7(3) of the RIP(S) Act.

#### **4.3.**

If the use of the source is necessary, the person granting the authorisation must be satisfied that the use of a source is proportionate to what is sought to be achieved by the conduct and use of that source. This involves balancing the intrusiveness of the use of the source on the target and others who might be affected by it against the need for the source to be used in operational terms. The use of a source will not be proportionate if it is excessive in the circumstances of the case or if the information which is sought could reasonably be obtained by other less intrusive means. The use of a source should be carefully managed to meet the objective in question and sources must not be used in an arbitrary or unfair way.

#### **4.4.**

Collateral intrusion – reasonable steps shall be taken to minimise the acquisition of information that is not directly necessary for the purposes of the investigation or operation being carried out.

#### **4.5.**

Before authorising the use or conduct of a source, the authorising officer should take into account the risk of intrusion into the privacy of persons other than those who are directly the subjects of the operation or investigation (collateral intrusion). Measures

should be taken, wherever practicable, to avoid unnecessary intrusion into the lives of those not directly connected with the operation or investigation.

#### **4.6.**

Authorisation – all use and conduct of covert human intelligence sources shall be authorised in accordance with the Procedure. Additionally, the authorising officer must make an assessment of any risk to a source in carrying out the conduct in the proposed authorisation and satisfactory arrangements exist for the management of the source.

### **5. The Authorisation Process**

#### **5.1.**

Applications for use of a Covert Human Intelligence Source will be authorised by a Corporate Director (other than the Corporate Director for Strategy, Performance and Business Solutions who has a role of deputising for the Senior Responsible Officer) or in their absence the Head of Legal and Governance.

#### **5.2.**

A Corporate Director should be a designated officer to give the necessary written authorisation for the use or conduct of a Covert Human Intelligence Source or in their absence the Head of Legal and Governance. In urgent or exceptional circumstances written or oral authorisation might be given by an officer of Chief Officer grade which should as soon as practicable be followed up by a written authorisation from the relevant official.

#### **5.3.**

In terms of the Scottish Government's Code of Practice a written authorisation granted by an authorising officer will cease to have effect (unless renewed) at the end of a period of twelve months beginning with the day on which it took effect. Urgent oral authorisations granted by a person who is entitled to act only in urgent cases will unless renewed, cease to have effect after seventy two hours, beginning with the time when the authorisation was granted or renewed. Further details are contained in the Procedure. Particular special rules apply to the use of vulnerable individuals or juvenile sources. Additional guidance is contained in Chapter 5 of the Code of Practice.

### **6. Documents**

#### **6.1.**

The Procedure in implementation of this Policy uses the following documents:

1. Use or conduct of a covert human intelligence source – Written Authorisation

This should be completed by the applicant in all cases not covered by oral authorisation (below). It is effective from the time that approval is given.

2. Use or conduct of a covert human intelligence source – Oral Authorisation

This is a record of an oral authorisation, which should be completed by the applicant. It should be used only in cases where the urgency of the situation makes the submission of a written application impractical. The authorising officer should write out a separate authorisation as soon as practical.

### 3. Use or conduct of a covert human intelligence source – Renewal of Authorisation

This should be completed by the applicant in all cases where surveillance is required beyond the previously authorised period (including previous renewals) and thereafter signed by the authorising officer.

### 4. Use or conduct of a covert human intelligence source – Cancellation

This should be completed by both the applicant and the authorising officer when the authorisation ceases to be either necessary or appropriate.

## 7. Security and Retention of Documents

### 7.1.

Documents created under this procedure are highly confidential and shall be treated as such. Services must ensure that arrangements are in place for the handling, storage and destruction of material obtained through the use of a covert human intelligence source. Authorising officers must ensure compliance with the requirements of data protection legislation, the Procedure for Authorisation of the use of Covert Human Intelligence Sources and Chapter 8 of the Scottish Government's Code of Practice on Covert Human Intelligence Sources.

### 7.2.

The Head of Legal and Governance shall maintain a register of current and past authorisations. Applicant officers shall ensure that sufficient information is provided to keep this up to date.

## 8. Central Record of all Authorisations

### 8.1.

A centrally retrievable record of all authorisations should be held by the Head of Legal and Governance and be regularly updated whenever an authorisation is granted, renewed or cancelled. The record should be made available to the relevant Inspector from the Investigatory Powers Commission, upon request. These records should be retained for a period of five years from the ending of the authorisation and should contain the following information:

- The type of authorisation.
- The date the authorisation was given.
- Name and rank/grade of the authorising officer.
- The unique reference number (URN) of the investigation or operation.
- The title of the investigation or operation, including a brief description and names of subjects, if known.
- Whether the urgency provisions were used, and if so why.

- If the authorisation is renewed, when it was renewed and who authorised the renewal, including the name and rank/grade of the authorising officer.
- Whether the investigation or operations is likely to result in obtaining confidential information as defined in this code of practice.
- The date the authorisation was cancelled.

## **8.2.**

In all cases, Services should maintain for a period of three years the following documentation which need not form part of the centrally retrievable record:

- A copy of the application and a copy of the authorisation together with any supplementary documentation and notification of the approval given by the authorising officer.
- A record of the period over which the activities of the source has taken place.
- A record of the result of each review of the authorisation; the results of which should be recorded in the central record.
- A copy of any renewal of an authorisation, together with the supporting documentation submitted when the renewal was requested.
- The date and time when any instruction was given by the authorising officer.

## Document control Sheet

### Review / Approval History

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## **Procedure for Authorisation of the use of Covert Human Intelligence Sources**

All our written information can be made available, on request, in a range of different formats and languages. If you would like this document in any other language or format, please contact Corporate Services on 01856873535 or email [corporateservices@orkney.gov.uk](mailto:corporateservices@orkney.gov.uk).



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## **1. Foreword**

### **1.1.**

The use of human beings to provide information ('informants') is a valuable resource for the protection of the public and the maintenance of law and order. In order that local authorities and law enforcement agencies are able to discharge their responsibilities, use is made of 'undercover' officers and informants. These are referred to as 'covert human intelligence sources' or 'sources' and the area of work of undercover officers and informants to whom this procedure applies will be referred to as 'source work'.

### **1.2.**

A legal framework ensures that the use, deployment, duration and effectiveness of sources is subject to an authorisation, review and cancellation procedure.

## **2. Implications of this Procedure**

### **2.1.**

In some circumstances, it may be necessary for Orkney Islands Council employees, in the course of their duties, to make use of informants and to conduct 'undercover' operations in a covert manner, i.e. without a person's knowledge. By their nature, actions of this sort may constitute an interference with that person's right to privacy and may give rise to legal challenge as a potential breach of Article 8 of the European Convention on Human Rights and the Human Rights Act 1998 ('the right to respect for private and family life').

### **2.2.**

The Regulation of Investigatory Powers Act (2000) [RIPA] and the Regulation of Investigatory Powers (Scotland) Act (2000) [RIP(S) A] and the Investigatory Powers Act 2016 ('the Acts') together provide a legal framework for covert surveillance activities by public authorities (including local authorities) and an independent inspection regime to monitor these activities.

### **2.3.**

Whilst the Acts do not impose a requirement for local authorities to seek or obtain an authorisation, where one is available Orkney Islands Council employees will adhere to the authorisation procedure before using a source or allowing or conducting an undercover operation.

### **2.4.**

Employees of Orkney Islands Council will not carry out intrusive surveillance within the meaning of the Regulation of Investigatory Powers (Scotland) Act 2000 nor will they authorise any person for any covert human intelligence source activity as an opportunity to install any surveillance equipment into residential premises or private vehicle.

## 2.5.

A number of practical examples of the use of covert human intelligence sources are contained in sections 2, 3 and 4 of the Scottish Government's Code of Practice on Covert Human Intelligence Sources: <https://www.gov.scot/publications/covert-human-intelligence-sources-code-practice/>

## 3. Objective

### 3.1.

The objective of this procedure is to ensure that all work involving the use or conduct of a source by Orkney Islands Council employees is carried out effectively, while remaining in accordance with the law. It should be read in conjunction with the Regulation of Investigatory Powers (Scotland) Act 2000 and the Scottish Government's Code of Practice on the Use of Covert Human Intelligence Sources ("the Code of Practice").

### 3.2. Definitions

#### 3.2.1.

Covert human intelligence source means a person who establishes or maintains a personal relationship with another person for the covert purpose of facilitating anything that:

1. Covertly uses such a relationship to obtain information or to provide information or to provide access to information to another person; or
2. Covertly discloses information obtained by the use of such a relationship or as a consequence of the existence of such a relationship.

A relationship is used covertly if, and only if, it is conducted in a manner calculated to ensure that the person is unaware of its purpose.

#### 3.2.2.

Directed surveillance is defined in the Code of Practice as surveillance undertaken "for the purposes of a specific investigation or operation" and "in such a manner as is likely to result in the obtaining of private information about a person."

#### 3.2.3.

Authorising officer is the person who is entitled to give an authorisation for use and conduct of a Covert Human Intelligence Source in accordance with section 7 of the Regulation of Investigatory Powers (Scotland) Act 2000.

#### 3.2.4.

Handler means the person referred to in section 7(6) of the Regulation of Investigatory Powers (Scotland) Act 2000 holding an office or position within the local authority and who will have day to day responsibility for:

- Dealing with the source on behalf of the local authority.

- Directing the day to day activities of the source.
- Recording the information supplied by the source.
- Monitoring the source's security and welfare.

### **3.2.5.**

Controller means the person/the designated managerial officer within the local authority referred to in section 7(6)(b) of the Regulation of Investigatory Powers (Scotland) Act 2000, responsible for the general oversight of the use of the source.

### **3.2.6.**

The conduct of a source is action of that source, falling within the terms of the Regulation of Investigatory Powers (Scotland) Act 2000, or action incidental to it.

### **3.2.7.**

The use of a source is any action to induce, ask or assist a person to engage in the conduct of a source or to obtain information by means of an action of the source.

### **3.2.8.**

Private information includes information about a person relating to his private or family life.

### **3.2.9.**

Residential premises means any premises occupied or used, however temporarily for residential purposes or otherwise as living accommodation.

### **3.2.10.**

Private vehicle means any vehicle that is used primarily for the private purpose of the person who owns it or of a person otherwise having the right to use it. This does not include a person whose right to use the vehicle derives only from his having paid, or undertaken to pay, for the use of the vehicle and its driver for a particular journey. A vehicle includes any vessel, aircraft or hovercraft.

## **4. Scope of the Procedure**

### **4.1.**

This procedure applies in all cases where the use of an undercover officer or source is being planned or carried out.

### **4.2.**

The procedure does not apply to:

- Covert test purchase transactions under existing statutory powers where the officers involved do not establish a personal or other relationship for the purposes stated (see definition of a covert human intelligence source). As an example the purchase of a music CD for subsequent expert examination would not require authorisation but where the intention is to ascertain from the seller where they

buy suspected fakes, when they take delivery etc. then authorisation should be sought beforehand.

- Tasks given to persons (whether that person is an employee of the Council or not) to ascertain purely factual information (for example the location of cigarette vending machines in licensed premises).
- Particular attention should be made to Social Media Networking Sites. A separate policy is in place in connection with surveillance through social media and should be consulted as necessary. In cases of doubt, the authorisation procedures described below should be followed.

## **5. Principles of Use or Conduct of Covert Human Intelligence Source**

In planning and carrying out the source work, Orkney Islands Council employees shall comply with the following principles.

### **5.1. Lawful purposes**

Source work shall only be carried out where necessary to achieve one or more of the permitted purposes (as defined in the Acts) namely:

#### **5.1.1.**

For the purpose of preventing or detecting crime or the prevention of disorder.

#### **5.1.2.**

In the interests of public safety.

#### **5.1.3.**

For the purpose of protecting public health.

Employees carrying out source work or using sources must be aware that a source has no licence to commit crime. Any source that acts beyond the acceptable limits of case law in regard to this principle risks prosecution.

It may be necessary to deploy directed surveillance against a potential source as part of the process of assessing their suitability for recruitment, or in planning how best to make the approach to them. An authorisation under this procedure authorising an officer to establish a covert relationship with a potential source could be combined with a directed surveillance authorisation so that both the officer and potential source could be followed.

### **5.2. Confidential material**

#### **5.2.1.**

Particular care should be taken with applications where a significant risk of acquiring confidential material has been identified.

### 5.2.2.

Confidential material consists of:

- Matters subject to legal privilege (for example between professional legal advisor and client); special rules apply in relation to directed surveillance carried out on premises where legal consultations are taking place and are referred to in the Procedure for Authorisation of Covert Surveillance.
- Confidential personal information (for example relating to a person's physical or mental health).
- Confidential journalistic material.

## 5.3. Vulnerable individuals

### 5.3.1.

Vulnerable individuals, such as a person aged 16 or over whose ability to protect him/herself from violence, abuse or neglect is significantly impaired through physical or mental disability or illness, through old age or otherwise, will only be authorised to act as a source in the most exceptional circumstances.

### 5.3.2.

Special safeguards also apply to the use or conduct of juvenile sources, that is, those under the age of 18 years. The use or conduct of any source under 16 years of age living with their parents cannot be authorised to give information about their parents.

### 5.3.3.

Subject to the above, juvenile sources can give information about members of their immediate family in exceptional cases. A parent, guardian or other 'appropriate adult' should be present at meetings with the juvenile source under the age of 16 years.

### 5.3.4.

An authorisation for the conduct or use of a source may not be granted or renewed in any case where the source is under the age of 18 at the time of the grant or renewal, unless:

- A person holding an office, rank or position with the relevant investigating authority has made and, in the case of a renewal, updated a risk assessment sufficient to demonstrate that:
  - The nature and magnitude of any risk of physical injury to the source arising in the course of, or as a result of, carrying out the conduct described in the authorisation have been identified and evaluated.
  - The nature and magnitude of any risk of psychological distress to the source arising in the course of, carrying out the conduct described in the authorisation have been identified and evaluated.

- The person granting or renewing the authorisation has considered the risk assessment and is satisfied that any risks identified in it are justified and, if they are, that they have been properly explained to and understood by the source.
- The person granting or renewing the authorisation knows whether the relationship to which the conduct or use would relate is between the source and a relative, guardian or person who has for the time being assumed responsibility for the source's welfare, and, if it is, has given particular consideration to whether the authorisation is justified in the light of that fact.

## **6. The Authorisation Process**

### **6.1.**

Applications for the use or conduct of a source will be authorised by a Corporate Director (other than the Corporate Director for Strategy, Performance and Business Solutions who has a role of deputising for the Senior Responsible Officer) and in their absence the Head of Legal and Governance who will give the necessary written authorisation for the use or conduct of the Covert Human Intelligence Source. In urgent or exceptional circumstances written or oral authorisation might be given by an officer of Chief Officer grade who has not been designed which should as soon as practicable be followed up by a written authorisation from the relevant official.

### **6.2.**

Authorising officers should ensure that arrangements are in place for the proper oversight and management of sources, including appointing individual officers as defined in section 7(6)(a) and (b) of RIP(S)A for each source as handler and controller. All Officers involved should be suitably trained and experienced.

### **6.3.**

Authorising officers should not be responsible for authorising their own activities, for example, those in which they, themselves, are to act as the covert human intelligence source or the handler of the covert human intelligence source. Furthermore, authorising officers should, where possible, be independent of the investigation. It is recognised that this is not always possible, especially in the cases of small organisations. However, where possible, clear separation should be maintained between those responsible for the investigation and those managing the covert human intelligence source to ensure that the safety and welfare of the covert human intelligence source are always given due consideration.

### **6.4.**

All applications for covert human intelligence source authorisations will be made on form OIC/auth/chis. The applicant in all cases should complete this. In urgent cases an oral authorisation may be given by the authorising officer. A statement that the authorising officer has expressly granted the authorisation should be recorded on the form or, if that is not possible, in the applicant's notebook or diary. This should be done by the person to whom the authorising officer spoke (normally the applicant) but should later be endorsed by the authorising officer. The authorising officer should write out a separate authorisation as soon as practical.

**6.5.**

The case for the authorisation should be presented in the application in a fair and balanced way. In particular, all reasonable efforts should be made to take account of information which supports or weakens the case for the authorisation.

**6.6.**

All applications for covert human intelligence source renewals will be made on form OIC/ren/chis. The applicant in all cases should complete this where the source work requires to continue beyond the previously authorised period (including previous renewals). The renewal of the authorisation should be signed by the authorising officer.

**6.7.**

Where authorisation ceases to be either necessary or appropriate the authorising officer and the applicant will cancel an authorisation using form OIC/can.chis.

**6.8.**

Forms, codes or practice and supplementary material will be available from the Council Intranet.

**6.9.**

Any person giving an authorisation for the use of a covert human intelligence source must be satisfied that:

- Account has been taken of the likely degree of intrusion into the privacy of persons other than those directly implicated in the operation or investigation ('collateral intrusion'). Measures must be taken, wherever practicable, to avoid unnecessary intrusion into the lives of those affected by collateral intrusion. Particular consideration should be given in cases where religious, medical, journalistic or legally privileged material may be involved, or where the communications of a member of a relevant legislature may be involved.
- The authorisation is necessary (see below).
- The authorised surveillance is proportionate (see below).
- Satisfactory arrangements exist for the management of the source.
- In particular when Environmental Health Investigators deploy DAT noise level monitors to assist in any enforcement action in relation to noisy neighbour complaints. These cases should be reviewed on a case by case basis and if necessary the appropriate authorisation sought.

**6.10.**

Authorisation for use of a Covert Human Intelligence Source can only be granted if sufficient arrangements are in place for handling the source's case. The arrangements that are considered necessary are that:



**6.10.1.**

There will at all times be a person holding the requisite office, rank or position with the relevant investigating authority who will have day to day responsibility for dealing with the source on behalf of that authority and for the source's security and welfare – this should be the source's line manager (the Handler).

**6.10.2.**

There will at all times be another person holding the requisite office, rank or position with the relevant investigating authority who will have general oversight of the use made of that source – this should be the handler's line manager (the Controller).

**6.10.3.**

There will at all times be a person holding the requisite office, rank or position with the relevant investigating authority who will have responsibility for maintaining a record of the use made of that source – this should be the Authorising Officer.

**6.10.4.**

The records relating to the use of that source are maintained by Orkney Islands Council which will always contain particulars of such matters as may be specified in regulations made by the Scottish Ministers.

**6.10.5.**

The records maintained by Orkney Islands Council that disclose the identity of the source will not be available to persons except to the extent that there is a need for access to them to be made available to those persons. The records kept by Orkney Islands Council should be maintained in such a way as to preserve the confidentiality of the source and the information provided by that source. There should, at all times, be a designated person within the authority who will have responsibility for maintaining a record of the use made of the source.

**6.11. Necessity**

An authorisation for the use of a Covert Human Intelligence source is necessary on grounds falling within section 7 (3) of RIP(S)A if it is necessary - (a) for the purpose of preventing or detecting crime or of preventing disorder; (b) in the interests of public safety; or (c) for the purpose of protecting public health.

**6.12. Effectiveness**

Planned undercover operations shall be undertaken only by suitably trained or experienced employees, or under their direct supervision.

**6.13. Proportionality**

The use of covert human intelligence sources must be proportionate or in terms of RIP(S)A section 7(b) that the authorised conduct or use is proportionate to what is sought to be achieved by that conduct or use.

A potential model answer would make clear that the following elements of proportionality had been fully considered:

- Balancing the size and scope of the operation against the gravity and extent of the perceived mischief.
- Explaining how and why the methods to be adopted will cause the least possible intrusion on the target and others.
- Whether there are any implications of the authorised conduct for the privacy of others, and an explanation of why (if relevant) it is nevertheless proportionate to proceed with the operation.
- That the activity is an appropriate use of the legislation and the only reasonable way, having considered all others, of obtaining the necessary result.
- Providing evidence of other methods considered and why they were not implemented.

The degree of intrusiveness of an authorisation of a covert human intelligence source will vary from case to case, and therefore proportionality must be assessed on an individual basis.

#### **6.14. Authorisation**

All use and conduct of covert human intelligence sources shall be authorised in accordance with this procedure.

The authorising officer must take into account the following issues when considering an application:

- Who is to be deployed as the source.
- What is being proposed.
- Where and when the proposed deployment will take place.
- Whether it is necessary and proportionate.

##### **6.14.1.**

However, the tasking of a person should not be used as the sole benchmark in seeking an authorisation. It is the activity of the covert human intelligence source in exploiting a relationship for a covert purpose which is ultimately authorised by RIP(S)A, whether or not that source is asked to do so by the Council. It is possible therefore that a person will become engaged in the conduct of a covert human intelligence source without the Council inducing, asking or assisting the person to engage in that conduct. An authorisation should be considered, for example, where the Council is aware that a third party is independently maintaining a relationship (i.e. self-tasking) in order to obtain evidence of criminal activity, and the Council intends to make use of that material for its own investigative purposes.

##### **6.14.2.**

Underlying all of these considerations is the requirement for the authorising officer to be satisfied that the terms of the legislation and relevant guidance are met.

**6.14.3.**

The authorising officer should clearly complete the “Authorising Officer’s Statement” on the application form, preferably in their own hand, and articulate in their own words what activity they are authorising.

**The Authorising Officer must state explicitly what is being authorised.****6.14.4.**

The Authorising Officer must describe and specify what they are granting. This may or may not be the same as requested by the applicant. For the benefit of those operating under the terms of an authorisation, or any person who may subsequently review or inspect an authorisation, it is essential to produce, with clarity, a description of that which is being authorised (i.e. who, what, where, when and how). The Authorising Officer should as a matter of routine state explicitly and in his own words what is being authorised, and against which subjects, property or location. Mere reference to the terms of the application is inadequate. The Authorising Officer should specify the details of how and why they consider the application to be both necessary and proportionate.

**Authorisation different from application.****6.14.5.**

If an application fails to include an element in the proposed activity which in the opinion of the Authorising Officer should have been included (for example, the return of something to the place from which it is to be taken for some specified activity), or which is subsequently requested orally by the applicant, it may be included in the authorisation; if so, a note should be added explaining why. Conversely, if an Authorising Officer does not authorise all that was requested, a note should be added explaining why. This requirement applies equally to intrusive surveillance, property interference, directed surveillance and CHIS authorisations.

**6.14.6.**

It is important to note that the reactive nature of the work of a covert human intelligence source, and the need for him/her to maintain cover, may make it necessary for the source to engage in conduct which was not envisaged at the time the authorisation was granted, but which is incidental to that conduct. Such incidental conduct is regarded as properly authorised by virtue of sections 1(6)(a), 5 and 7(5) of RIP(S)A, even though it was not specified in the initial authorisation.

**The Senior Responsible Officer should avoid granting authorisations.****6.14.7.**

The role of the Senior Responsible Officer is to oversee the competence of Authorising Officers and the processes in use in their public authority. Whilst legislation does not preclude their use as an Authorising Officer, it is unlikely that they would be regarded as objective if they oversee their own authorisations.

**6.14.8.**

Additionally, the authorising officer must assess risks to a source in carrying out the conduct in the proposed authorisation. The risk assessment must be made by the applicant and presented to the authorising officer for consideration. A risk assessment is carried out to determine the risk to the source of any tasking and the likely consequences should the role of the source become known. The ongoing security and welfare of the source, after the cancellation of the authorisation, will also be considered from the outset.

**Use of a covert human intelligence source with technical equipment.****6.1.9.**

A covert human intelligence source wearing or carrying a surveillance device and invited into residential premises or a private vehicle does not require special authorisation to record activity taking place inside the premises or vehicle. Authorisation for the use of that covert human intelligence source may be obtained in the usual way.

**6.14.10.**

Applicants should apply within their own line management structure unless other arrangements have been agreed or it is unreasonable or impractical in the circumstances.

**7. Security and Welfare**

The Council, when deploying a covert human intelligence source, should take into account the safety and welfare of that source when carrying out actions in relation to an authorisation or tasking, and the foreseeable consequences to others of that tasking. Before authorising the use or conduct of a covert human intelligence source, the authorising officer should ensure that a risk assessment is carried out to determine the risk to the source of any tasking and the likely consequences should the role of the source become known. This should consider the risks relating to the specific tasking and circumstances of each authorisation separately and should be updated to reflect developments during the course of the deployment, as well as after the deployment if contact is maintained.

**8. Time Periods – Authorisations****8.1.**

Urgent oral authorisations granted by a person who is entitled to act only in urgent cases will unless renewed, cease to have effect after seventy-two hours, beginning with the time when the authorisation was granted or renewed.

**8.2.**

In terms of the Scottish Government's Code of Practice a written authorisation granted by an authorising officer will cease to have effect (unless renewed) at the end of a period of twelve months beginning with the day on which it took effect. Authorisations for the deployment of a juvenile source are for one month.

## **9. Time Periods – Renewals**

### **9.1.**

Before an authorising officer renews an authorisation, they must be satisfied that a review has been carried out of the use of a source as outlined in paragraph 10.1.

### **9.2.**

If at any time before an authorisation would cease to have effect, the authorising officer considers it necessary for the authorisation to continue for the purpose for which it was given, they may renew it in writing for a further period of twelve months. Renewals may also be granted orally in urgent cases and last for a period of seventy-two hours.

### **9.3.**

A renewal takes effect at the time at which, or day on which the authorisation would have ceased to have effect but for the renewal. An application for renewal should not be made until shortly before the authorisation period is drawing to an end. Any person who would be entitled to grant a new authorisation can renew an authorisation. Authorisations may be renewed more than once, in necessary, provided they continue to meet the criteria for authorisation. The renewal should be kept/recorded as part of the authorisation record.

### **9.4.**

Authorisations for the deployment of a juvenile source are renewable for a further period or further periods of one month each.

## **10. Review**

### **10.1.**

The Authorising Officer shall keep all authorisations under constant review and an authorisation will be cancelled immediately the requirement for surveillance ceases. The Authorising Officer should set review dates and ensure that all reviews are carried out immediately after the source has been deployed with the review period tailored to meet the particular requirements of the investigation. Details of the review and the decision reached shall be noted on the Review Form.

### **10.2.**

Particular attention should be given to the need to review authorisations frequently where they involve a high level of intrusion into private life or significant collateral intrusion, or particularly sensitive information is likely to be obtained. At the point when the Council is considering applying for an authorisation, it must have regard to whether the level of protection to be applied in relation to information obtained under the warrant or authorisation is higher because of the particular sensitivity of that information.

### **10.3.**

In each case, unless specified by the Investigatory Powers Commission, the frequency of reviews should be determined by the Council. This should be as frequently as is considered necessary and proportionate.

### **10.4.**

In the event that there are any significant and substantive changes to the nature of the operation during the currency of the authorisation, the Council should consider whether it is necessary to apply for a new authorisation.

## **11. Cancellation**

### **11.1.**

The authorising officer and the applicant must keep each authorisation under review. The applicant must notify the authorising officer if they consider that the authorisation is no longer necessary or proportionate. The authorising officer must cancel an authorisation if they are satisfied that the use or conduct of the source no longer satisfies the criteria for authorisation or that procedures for the management of the source are no longer in place. Where possible, the source must be informed that the authorisation has been cancelled.

### **11.2.**

Where necessary and practicable, the safety and welfare of the covert human intelligence source should continue to be taken into account after the authorisation has been cancelled and risk assessments maintained. The authorising officer will wish to satisfy himself/herself that all welfare matters are addressed and should make appropriate comment in their written commentary.

## **12. Record Keeping**

### **12.1.**

Each Service or discrete location within Services must maintain a record of all applications for authorisation (including refusals), renewals, reviews and cancellations. A centrally retrievable record of all authorisations will be held by Legal and Governance and be regularly updated whenever an authorisation is granted, renewed or cancelled. An application for authorisation cannot proceed until a unique reference number (URN) has been issued by Legal and Governance and Legal and Governance must have sight of each and every application. The central register shall be kept up-to-date all times. The record should be made available to the relevant Inspector from the Investigatory Powers Commission, upon request. These records should be retained for a period of at least five years. The Council's Policy for Authorisation on use of Covert Human Intelligence Sources contains further details at Paragraph 8 thereof.

### **12.2.**

In addition, consideration should be given to maintaining auditable records for individuals providing intelligence who do not meet the definition of a covert human

intelligence source. This will assist the Council to monitor the status of an individual and identify whether that person should be duly authorised as a covert human intelligence source. This should be updated regularly to explain why authorisation is not considered necessary.

## **13. Security and Retention of Documents**

### **13.1.**

Documents created under this procedure are highly confidential and shall be treated as such. Services shall make proper arrangements for their retention, security and destruction, in accordance with the requirements of data protection legislation and Chapter 8 of the Scottish Government's Code of Practice on Covert Human Intelligence Sources.

### **13.2.**

Dissemination or copying of material must be limited to the minimum necessary for authorised purposes. The purposes are authorised if the material:

#### **13.2.1.**

Is, or is likely to become, necessary for any of the statutory purposes set out in RIPSA in relation to covert surveillance or property interference;

#### **13.2.2.**

Is necessary for facilitating the carrying out of the functions of public authorities under RIPSA;

#### **13.2.3.**

Is necessary for facilitating the carrying out of any functions of the Investigatory Powers Commission or the Investigatory Powers Tribunal;

#### **13.2.4.**

Is necessary for the purposes of legal proceedings; or

#### **13.2.5.**

Is necessary for the performance of the functions of any person by or under any enactment.

### **13.3.**

Legal and Governance will maintain the Central Register of Authorisations. Authorising officers shall notify Legal and Governance of the grant, renewal or cancellation of any authorisations and the name of the Applicant Officer within 1 working day to ensure the accuracy of the Central Register.

**13.4.**

The Authorising Officer shall retain the original Authorisation and Renewal Forms until cancelled. On cancellation, the original Application, Renewal and Cancellation forms shall be forwarded to Legal and Governance with the Authorising Officer retaining a copy.

**13.5.**

The Authorising Officer shall retain the copy forms for a period of three years after cancellation. Legal and Governance will retain the original forms for at least five years after cancellation. In both cases these will not be destroyed without the authority of the authorising officer if practicable.

**13.5.**

All information recovered through the use of a source which is relevant to the investigation shall be retained for a period of five years after the cancellation of the authorisation or the completion of any Court proceedings in which said information was used or referred to. All other information shall be destroyed as soon as the operation is cancelled.

**14. Particulars to be Contained in Records**

1. The identity of the source.
2. The identity, where known, used by the source.
3. Any relevant investigating authority other than the authority maintaining the records.
4. The means by which the source is referred to within each relevant investigating authority.
5. Any other significant information connected with the security and welfare of the source.
6. Any confirmation made by a person granting or renewing an authorisation for the conduct or use of a source that the information in paragraph (5) has been considered and that any identified risks to the security and welfare of the source have where appropriate been properly explained to and understood by the source.
7. The date when, and the circumstances in which, the source was recruited.
8. The identities of the persons who, in relation to the source, are discharging or have discharged the functions.
9. The periods during which those persons have discharged those responsibilities.
10. The tasks given to the source and the demands made of him or her in relation to their activities as a source.



11. All contacts or communications between the source and a person acting on behalf of any relevant investigating authority.
12. The information obtained by each relevant investigating authority by the conduct or use of the source.
13. Any dissemination by that authority of information obtained in that way.
14. In the case of a source who is not an undercover operative, every payment, benefit or reward and every offer of a payment, benefit or reward that is made or provided by or on behalf of any relevant investigating authority in respect of the source's activities for the benefit of that or any other relevant investigating authority.

## **15. Oversight**

The Investigatory Powers Act 2016 establishes an Investigatory Powers Commission to provide comprehensive oversight of the use of the powers to which this Procedure applies. This oversight includes inspection visits by Inspectors appointed by the Investigatory Powers Commission.

## **16. Complaints**

The Investigatory Powers Tribunal has jurisdiction to investigate and determine complaints against public authority use of investigatory powers. Any complaints in respect of the use by the Council of its powers described in this Procedure should be directed to the Investigatory Powers Tribunal. Full details of how to present a complaint are available on the Tribunal's website – [www.ipt-uk.com](http://www.ipt-uk.com).

## Document control Sheet

### Review / Approval History

Date	Name	Position	Version Approved
1 May 2018	Gavin Mitchell	Head of Legal Services	V1.2– approved at General Meeting of the Council
1 May 2019	Gavin Mitchell	Head of Legal Services	V1.3
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11 May 2020	Gavin Mitchell	1.4	Final	Reflect observations contained in IPC Inspection Report



## **Surveillance through Social Media Policy**

All our written information can be made available, on request, in a range of different formats and languages. If you would like this document in any other language or format, please contact Corporate Services on 01856873535 or email [corporateservices@orkney.gov.uk](mailto:corporateservices@orkney.gov.uk).

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## **1. Introduction**

### **1.1.**

This document sets out Orkney Islands Council's policy regarding internet surveillance using Social Media.

### **1.2.**

Reference is made to Orkney Islands Council's policies and procedures in respect of covert surveillance and use of covert human intelligence sources (hereinafter collectively referred to as 'the Council's RIPSAs policies and procedures'), to which this policy is subsidiary.

### **1.3.**

In some circumstances, it may be necessary for Orkney Islands Council employees, in the course of their duties, to access social media websites either by creating covert identities or through the officer's Service identity.

### **1.4.**

Directed online surveillance using an officer's private social media account should not be undertaken in any circumstances given the personal and operational security risks which such use would be liable to present.

### **1.5.**

Officers are referred to paragraphs 3.11 to 3.16 of the Scottish Government's Code of Practice on Covert Surveillance and Property Interference (December 2017) and paragraphs 4.7 to 4.14 of the Scottish Government's Code of Practice on Covert Human Intelligence Sources (December 2017) which provide operational examples that would assist staff in recognising situations where RIPSAs are potentially engaged in their investigations. Links to these Codes of Practice are published on the RIPSAs page of the Council's website: <https://www.orkney.gov.uk/Service-Directory/R/RIPSA.htm>

### **1.6.**

Whilst much of the work undertaken by social workers is not in pursuance of the prevention or detection of crime, and is not within the purview of RIPSAs, research conducted online in the interests of a child may still engage an individual's rights under Article 8 of the European Convention of Human Rights (right to respect for one's private and family life). This should be considered by staff prior to conducting any research online, being aware of their obligations in ensuring such Article 8 rights are not infringed by any online research conducted in child protection cases. Therefore, a protocol containing an auditable process has been developed for circumstances where online research is considered necessary in the interests of child protection. The process is similar to the procedure for seeking a RIPSAs authorisation as commended by the Investigatory Powers Tribunal. Orkney Health and Care shall be responsible for ensuring that this process is observed.

## **2. Statement of Intent**

The aim of this policy is to provide the framework outlining the Council's process for authorising and managing internet surveillance operations using social media, and to set the parameters for expected good practice.

## **3. Objective**

The objective of this policy is to ensure that all surveillance through social media conducted by Orkney Islands Council employees is carried out effectively, while remaining in accordance with the law. It should be read in conjunction with the Council's RIPSAs policies and procedures, the relevant legislation, the Scottish Government's Codes of Practice on Covert Surveillance and Property Interference and on Covert Human Intelligence Sources ('the Codes of Practice') and any guidance which the Investigatory Powers Commission may issue from time to time.

## **4. Orkney Islands Council's Social Media Presence**

The Council has four main social media accounts. The OIC Updates Facebook page and Orkney Council Twitter feed are managed by the communications team and provide information about a range of Council activities. The OIC School Transport Facebook page is managed by the Education Service. The OIC Roads Twitter Feed is managed by the Council's roads team and provides updates about road conditions on the Churchill Barriers during adverse weather.

In addition, a number of services manage Facebook and Twitter accounts including primary and secondary schools, the museum service, the library and St Magnus Cathedral.

## **5. Types of Investigators' Accounts**

There are two different ways in which social media websites may be accessed by council officers to carry out investigations:

- Through an identity created specifically as the service's representative.
- Through a covert identity using a false name.

## **6. Types of Surveillance**

Investigators utilise social media in two different ways:

- By simply visiting / viewing third party accounts or groups.
- By entering into a personal relationship with the third party/group member.

## **7. Privacy Settings of Account under Investigation**

### **7.1.**

Most social media websites will have a variety of privacy settings that users can apply to protect their accounts from others accessing the information contained therein. Facebook would be the social media website that would be most commonly used by Orkney Islands Council Officers to investigate service users or potential

service users and it has several different privacy settings. Therefore, Facebook will be used as an example in this policy. Depending on what privacy setting a user chooses, different people can access the account and see all or some of its contents.

#### **7.1.1. 'Public'**

All Facebook users can see the account and all of its content, including the user's "friends", their timeline and photographs. Non-Facebook users can see photographs and posts published on the account, but not who has 'liked' a post or the marital status or geographic location of the user.

#### **7.1.2. 'Friends'**

Only those whom the user has accepted as Facebook 'friends' are able to see the entire content of the user's page.

#### **7.1.3. 'Custom'**

The user can create lists of specific contacts and Facebook users and designate them as the audience for – or block them from view of – any posts.

Of these three options, the relevant options for investigating officers are 'public' and 'friends', as option 3 is a sub-category of 'friends'.

## **8. Utilisation of Social Media**

### **8.1. Surveillance using identity as department's representative or departmental account**

#### **'Public' privacy setting**

##### **8.1.1.**

If an investigating officer views a service user's Facebook profile, with whom they are not 'Friends' via a normal route, and where the content is not protected by any privacy settings, then information on this profile can be treated as being in the public domain. Any viewing / visiting of this profile will be overt and no authorisation under RIPSAs will be required.

##### **8.1.2.**

If the officer frequently or regularly views/visits the same individual's profile this must be considered as targeted. However if the service user posts publicly, they can have no expectation of privacy and will give everybody the right to view their posts at any time and as many times as that person wishes to. Therefore, strictly speaking, no authorisation under RIPSAs for directed surveillance is required. However, as a matter of best practice, an appropriate RIPSAs authorisation should be sought.

### **8.1.3.**

If an investigating officer enters into a 'conversation' with the service user, and if the officer informs them that they are contacting them in their role as an employee of Orkney Islands Council, then this contact will be overt and no authorisation under RIPSAs will be required.

### **'Friends' privacy setting**

### **8.1.4.**

To investigate a service user whose Facebook account is protected by privacy settings, the investigating officer will have to send the service user a 'friend request'. As it is obvious from the department name that the person behind it is an Orkney Islands Council employee, then the action could not be classified as covert. No RIPSAs authorisation would be needed.

### **8.1.5.**

In either of the above privacy settings, although the officer has been given access to the account with the consent of the owner, the officer will still need to consider whether the account may contain information about others who have not given their consent. If there is a likelihood of obtaining private information about others, the need for a directed surveillance authorisation should be considered, particularly where it is intended to monitor the account going forward.

## **8.2. Surveillance using covert identity**

### **8.2.1.**

If an investigating officer establishes a relationship with a service user under a covert identity in order to obtain, provide access to, or disclose information, then a covert human intelligence source ('CHIS') authorisation will always need to be in place before that is done.

### **8.2.2.**

However if a covert identity is presented but no steps are taken to form a relationship with the subject, a CHIS authorisation may not be required. For example, where a website or social media account requires a minimum level of interaction (such as sending or receiving a friend request before access is permitted) this may not in itself amount to establishing a relationship. Equally, the use of electronic gestures such as "like" or "follow" in order to react to information posted by others online would not in itself constitute forming a relationship. Nonetheless, it should be borne in mind that entering a website or responding to such gestures may lead to further interaction with that user or other users. A CHIS authorisation should be obtained if it is intended to engage in such interaction to obtain, provide access to, or disclose information.



## **9. Best practice for the use of social media in investigations**

As a matter of best practice, whenever a Council officer intends to investigate a particular service user through social media, rather than conducting a general sweep of social media sites, an appropriate RIPSAs authorisation should be completed.

## **10. Authorisation for all types of surveillance**

Please refer to Orkney Islands Council's Policies and Procedures on Covert Surveillance and Use of Covert Human Intelligence Sources.

## **11. Review of Policy**

This policy will be reviewed every year from the date of approval.

## Document control Sheet

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11 May 2020	Gavin Mitchell	V1.3	Final	Reflect observations contained in IPC Inspection Report



# **Sustainable Procurement Policy**

**February 2022**

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December 2021/January 2022	Rosemary Colsell	2.1	Revised Version	Public consultation responses incorporated.

## 1. Introduction

This policy sets out the general principles that the Council will follow across all of its procurement and commissioning activities to ensure that it is undertaken in a sustainable manner.

It sets out how OIC will plan and manage its procurement activities to meet the Council's corporate aims and objectives and comply with regulatory and legislative requirements.

This policy supports the commitment to sustainable procurement which is set out in the Council's [Corporate Procurement Strategy 2019 to 2021](#).

It is intended for all of those who are involved in, or affected by, the Council's procurement activities throughout our community and beyond.

Orkney Islands Council spends tens of millions of pounds each year on a diverse range of goods, services and works from third parties. It is important therefore that this spending power is used to support key Council objectives. This sustainable procurement policy has been developed to help the Council to meet its legal duties and to deliver its key strategic objectives.

Sustainable procurement supports the Council's values, as outlined in [Orkney Islands Council's Delivery Plan 2018 to 2023](#).

Procurement cuts across all Council services and forms an integral part of the Council's ability to achieve its declared strategic priorities as detailed below:

- Connected Communities.
- Caring Communities.
- Thriving Communities.
- Enterprising Communities.
- Quality of Life.

Whilst procurement is a key enabler across all the Council's priorities; Caring, Thriving and Enterprising Communities are those where a direct impact can be made.

The Council's values guide the way in which it procures supplies, services and works:

- Resilience.
- Enterprise.
- Equality.
- Fairness.
- Innovation.
- Leadership.
- Sustainability.

This Policy outlines how sustainable procurement supports and contributes to the implementation of the Council's Delivery Plan 2018 to 2021.

## 2. Background

Orkney Islands Council required an up-to-date Sustainable Procurement Policy to reflect recent significant changes in public procurement legislation.

The Policy reflects the requirements of the Public Contracts (Scotland) Regulations 2015, the Procurement Reform (Scotland) Act 2014 and the Procurement (Scotland) Regulations 2016, the Concession Contracts (Scotland) Regulations 2016, the Utilities Contracts (Scotland) Regulations 2016 and the Public Contracts (Scotland) Amendment Regulations 2016. These and other major pieces of legislation including the Equality Act 2010, the Equality Act 2010 (Specific Duties) (Scotland) Regulations 2012, the Fairer Scotland Duty, Equality Act (Part 1 of the Equality Act 2010) – commenced 2018), have informed the Council's Contract Standing Orders, details of which are contained in the Procurement Strategy.

This policy should be read in conjunction with the Council's Corporate Procurement Strategy and the Council's Contract Standing Orders. It applies to the procurement of all goods, services and works. It aims to ensure that Council procurement activities contribute to the social, economic and environmental well-being of our remote and fragile islands communities, both now and in the future.

The Sustainable Procurement Policy also reflects changes brought about by the requirements of the Community Empowerment Act Scotland 2015, a fundamental review of Community Planning Partnerships, and the development of a new Local Outcomes Improvement Plan (LOIP), which has replaced the Single Outcome Agreement and the integration of Health and Social Care. The Children and Young People (Scotland) Act 2014 is also a diverse piece of legislation affecting many services.

The Climate Change (Emissions Reduction Targets) (Scotland) Order 2015, Climate Change (Emissions Reduction Targets) (Scotland) Act 2019 and the Climate Change (Duties of Public Bodies: Reporting Requirements) (Scotland) Amendment Order 2020 will increasingly be reflected in the Council's Policy and subsequent sustainable procurement considerations.

This Policy outlines how the Council takes a responsible and sustainable approach to procurement. The Policy will be reviewed on an annual basis to ensure it is line with any emerging Council commitments on Climate Change and remains in accord with emerging Scottish Government Policy, reflected in the Paris Agreement on Climate Change, COP 26 and beyond as appropriate

## 3. What is Sustainable Procurement?

Definition:

'Sustainable Procurement is a process whereby organisations meet their needs for goods, services and works in a way that achieves value for money on a whole life basis and generates benefits not only to the organisation, but also to society, the economy and the environment'.

Sustainable procurement considers the social, economic and environmental consequences of what is procured through all stages of its life-cycle. This includes considering design, resource extraction and sourcing, manufacturing and production, transportation, service delivery, operation and maintenance, reuse, recycling and disposal. It is also about questioning whether the purchase requires to be made at all.

Sustainable procurement also considers the capacity of suppliers to address these consequences throughout the entire supply chain.

#### **4. Sustainable Procurement Duty**

The Council is required to comply with the requirements of the Sustainable Procurement Duty under section 9 of Procurement Reform (Scotland) Act 2014, as follows:

The Sustainable procurement duty is the duty of a contracting authority:

A. Before carrying out procurement, to consider how in conducting the procurement process it can:

1. Improve the economic, social, and environmental wellbeing of the authority's area;
2. Facilitate the involvement of small and medium enterprises, third sector bodies and supported businesses in the process, and
3. Promote innovation, and

B. In carrying out the procurement, to act with a view to securing such improvements identified as a result of paragraph A1.

The Council is also obliged to have regard to the Procurement Reform (Scotland) Act 2014 statutory guidance as detailed below:

The [Sustainable Procurement Duty](#); and [Community Benefit Requirements in Procurement](#).

Selection of Tenderers and [Award of Contracts: Addressing Fair Work Practices](#), including the Living Wage, in Procurement.

[Procurement of Health and Social Care Services](#).

Scottish Procurement Policy Note (SPPN) [07/2016 - Update to Guidance on the Procurement of Care and Support Services \(Best Practice\)](#).

[Taking Account of Climate and Circular Economy Considerations in Public Procurement \(SPPN\) 01/2021](#).

Scottish Procurement Policy Note (SPPN) [03/2021 Implementation of Fair Work First in Scottish Public Procurement](#).

All Contracts that are awarded by the Council, regardless of value, are subject to an obligation to seek best value and to demonstrate transparency, equal treatment, non-discrimination and proportionality.

The Scottish Government has designed a suite of Sustainable Procurement Tools to help public sector organisations identify and address how they can optimise the economic, social and environmental outcomes of their procurement activity available at <https://sustainableprocurementtools.scot/>. These tools will be used where appropriate and where they add value to the procurement exercises being undertaken.

The detailed risks and opportunities in the sustainable procurement tools align with Scotland's [National Performance Framework](#) (NPF) and Scotland's [National Outcomes and Indicators](#) achieving a line of sight between procurement activity and local and national strategic priorities:

- Climate Change.
- Materials.
- Waste.
- Hazardous materials.
- Biosecurity.
- Biodiversity.
- Heritage.
- Water.
- Employment, skills and training.
- Communities.
- Equality.
- Fair Work.
- Fairly and Ethically Traded.
- Health & Wellbeing.
- Security & Crime.

## **5. Benefits of Sustainable Procurement**

The Council recognises and wishes to maximise the benefits achievable through sustainable procurement. Sustainable procurement can deliver additional benefits for the Council while contributing to the social, economic and environmental well-being of people and places. For example sustainable procurement will enable the Council to:

- Achieve value for money by avoiding unnecessary purchasing, by considering and then lowering the whole life costs of goods, services and works and through improved resource efficiency.
- Report on progress towards meeting its legal duties and other obligations in relation to climate change and sustainable development.
- Stimulate the market and encourage innovation for sustainable products and services.
- Support the local supply community by engaging with Small and Medium Enterprises and Third Sector organisations so they can compete for Council contracts.
- Help build a sustainable supply chain for the future and improve supplier relationships.



## 6. General approach to Sustainable Procurement

The Council's approach to sustainable procurement is as follows:

- We will ensure that our procurement of goods, services and works contributes to achieving our vision of a truly sustainable supply chain.
- We will ensure that our procurement minimises its contribution to climate change and supports goods, services and works that are well-adapted to the consequences of a changing climate.
- We will deliver value for money by realistically assessing, where appropriate, the whole life-cycle costs of our procurement and not simply considering the initial purchase price.
- We will ensure that what we intend to purchase is necessary and that, where appropriate, there is a business case for doing so. We will specify our requirements so as to meet the needs of users and to avoid purchasing more than is needed.
- We will carry out sustainable procurement activities whilst complying within the public procurement legal framework which is intended to promote fair and open competition.
- We will ensure that when developing our requirements for goods, services and works we assess the possible social, economic and environmental impacts of our procurement and actively seek to contribute to the social, economic and environmental well-being of our remote and fragile island communities. Where appropriate to the subject matter of the contract, this to be undertaken as part of pre-market engagement and consultation.
- We will not knowingly procure goods, services and works that impact negatively on places, people and other species both locally and elsewhere.
- Where appropriate, we will consult with the people whose needs we aim to meet through our procurement to ensure that we procure goods, services and works that meet their needs.
- We will not intentionally discriminate against specific groups of people when undertaking our procurement activities and will promote equality in line with legislative requirements.
- We will support the aims of the Modern Slavery Act 2015 and ensure that our suppliers provide us with confirmation of their compliance with the Act.
- Where it is appropriate and proportionate to do so we will procure goods and services in line with the best practice guidance set out in the Scottish Government Procurement Journey and any other relevant best practice guidance.
- We will consider the effects of island proofing where appropriate and in light of anticipated guidance issued by the Scottish Government.

## 7. Scope and Implementation of the Policy

Practical guidance on how sustainable procurement can be embedded into the Council's procurement processes is available on the Scottish Government's website. This is contained within the Scottish Government's 'Procurement Journey' best practice procurement toolkit.

In line with the Council's Contract Standing Orders we will use the Sustainable Procurement suite of tools contained in the Procurement Journey to support implementation and to ensure that our procurement approach and processes are relevant and proportionate to the Orkney Islands Council context.

The initial focus will be on priority commodities, services and suppliers i.e. those which are identified by the Council as being associated with the highest social, economic and environmental risks and opportunities.

Delivery of the commitments made in this policy will be supported through the implementation of the Council's Procurement Strategy 2019 to 2021 and the Council's Procurement Annual Report. Progress against the stated objectives will be monitored and reported on an annual basis as part of the Procurement Service Improvement Action Plan 2019 to 2021 via the Council's Performance Management System.

## **8. Outcomes from Sustainable Procurement**

**Outcome 1: the social and economic benefits from our sustainable procurement are maximised.**

8.1. We will, where appropriate, build into the procurement process options for suppliers to offer training, employment, work experience placements, apprenticeships and volunteering opportunities for members of our local communities including people experiencing long-term unemployment including adults with learning disabilities registered on employment support schemes, and young people not in employment, education or training.

8.2. We will require suppliers to communicate to our local communities, employment opportunities arising from our procurement activities.

8.3. In accordance with the requirements of the Sustainable Procurement Duty of the Procurement Reform (Scotland) Act 2014, we will consider how, in conducting the procurement process, we can facilitate the involvement of small and medium enterprises and third sector bodies. We will, wherever possible, ensure that our procurement processes as far as possible are proportionate and relevant to the economic benefits and scale of the contract.

8.4. We will, where possible, reserve contracts for Supported Businesses under Regulation 21 of the Public Contracts (Scotland) Regulations 2015 where their prices and capacity to deliver the contract is comparable to the rest of the market.

8.5. We will not knowingly purchase goods and services from suppliers that trade in slavery, child labour, prostitution, and illegal drugs. We will not knowingly work with suppliers who breach International Labour Organisation conventions in accordance with the Modern Slavery Act 2015 we will ensure our suppliers, where relevant to the subject matter of the contract, complete a compliance statement and provide evidence of compliance with their obligations under relevant international legislation where requested to do so.

8.6. We will, where practicable and where it is sustainable, purchase fair trade options certified by appropriate independently verified accreditation schemes as a means of helping excluded and disadvantaged producers, including independent small farmers, to access international markets and receive a fair price for their products. Where certification by accreditation schemes is an optional requirement we will make clear in the tender documentation how this will be evaluated. We recognise that Fairtrade and other accreditation schemes also secure safeguards in relation to ethical working practices and will encourage suppliers to indicate what safeguards they have in place to secure these where appropriate to the subject matter of the contract.

8.7. In accordance with the requirements of the Procurement Reform (Scotland) Act 2014 in relation to the provision of food, we will take measures to improve the health, wellbeing and education of the local community. We will, where practicable and where it is sustainable, specify fresh, seasonal and nutritious food.

8.8. We will not knowingly purchase genetically modified food or food with genetically modified ingredients.

8.9. We will specify Protected Geographical Indication and Protected Designation of Origin standards where they are justified by menu requirements.

8.10. In line with the requirements of the Procurement Reform (Scotland) Act 2014 in relation to the provision of food, we will promote the highest standards of animal welfare through our procurement. We will consider animal welfare throughout the supply chain and appropriate independently verifiable accreditation schemes, when making procurement decisions, and wherever possible, will not purchase goods which have been developed using animal testing.

8.11. In accordance with Regulation 47 of the Public Contract (Scotland) Regulations 2015, we will consider dividing contracts into small lots to encourage the active participation of our local businesses in the procurement process.

8.12. We will build into our procurement processes opportunities as appropriate for suppliers to propose provision of goods, services or works guaranteed by independent accreditation schemes. We recognise that there are a range of independently accredited quality schemes where the additional costs deliver significant environmental, social, quality or animal welfare benefits.

**Outcome 2: the negative environmental impacts are minimised and the environmental benefits maximised from our procurement.**

8.13. Where possible we will procure goods, services and works that minimise release of Greenhouse gas and particulate emissions associated with use of fossil fuel energy sources, use of non-renewable materials, waste creation and pollution to air, water and land. In doing so, we will analyse all stages of the life-cycle including design, resource extraction and sourcing, manufacturing and production, transportation, service delivery, operation and maintenance, reuse, recycling and disposal.

8.14. We will, where appropriate and where it is sustainable, purchase fewer new goods by re-using, repairing, refurbishing or remanufacturing existing goods, in line with Scotland's 2016 Circular Economy Strategy 'Making Things Last' and where this is relevant to our Island context.

8.15. We will, where appropriate and where it is sustainable, specify goods and materials made with recycled material.

8.16. We will not purchase goods and materials that are made of plastic which cannot be recycled where alternative options are available, and we will seek to minimise the purchase of recyclable plastics where alternative goods and materials can be used.

8.17. We will specify minimum packaging, reusable packaging and packaging take-back.

8.18. We will specify energy efficient goods, services and works in line with current best practice standards and specifications.

8.19. We will ensure that the vehicles we purchase, lease or hire have low emissions of greenhouse gases and air pollutants.

8.20. We will procure timber and timber-based goods from verifiable sustainable sources that evidence clear chains of custody. We will encourage suppliers to make use of independently verified accreditation schemes that address negative environmental impacts.

8.21. We will, in exercising our procurement function, meet the duty to further the conservation of biodiversity arising from the Nature Conservation (Scotland) Act 2004. We will, where appropriate, specify through our procurement processes requirements which protect and enhance green spaces, habitats, species, sustainable farming practices and biodiversity both locally and globally. In particular, we will protect and enhance priority habitats and species in Orkney.

8.22. We will ensure that any emerging Council commitments on Climate Change are incorporated into the Sustainable Procurement Policy by reviewing the policy on an annual basis to reflect the potential for rapid change in this fast moving policy area.

### **Outcome 3: Orkney Islands Council has a more sustainable supply chain.**

8.23. Strengthening local supply chains and promote the use of local goods and services within the parameters of procurement legislation, we will work with suppliers and encourage them, whenever possible, to use more sustainable goods, processes and working practices in their own business operations and encourage them to engage in sustainable procurement activities within their own supply chains.

8.24. We will encourage suppliers, through the inclusion of sustainability criteria in our tendering process, to develop innovative and competitively priced sustainable goods, services and works.

8.25. We will ensure suppliers comply with their commitments to the sustainability criteria within our specifications and their tender submissions by building in proportionate, effective monitoring and management into contract arrangements.

8.26. Outcomes to define success will be developed in liaison with suppliers as part of the contract management process.

8.27. We will consider methods of incentivising investment and promoting a culture of improvement by suppliers in sustainable development on a contract by contract basis where this is practicable and appropriate.

8.28. We will not knowingly purchase goods and services from suppliers that trade in slavery, prostitution, use of child labour and illegal drugs. We will not knowingly work with suppliers who breach International Labour Organisation conventions in accordance with the Modern Slavery Act 2015 we will ensure our suppliers, where relevant to the subject matter of the contract, complete a compliance statement and provide evidence of compliance with their obligations under relevant international legislation, where requested to do so.

#### **Outcome 4: sustainable procurement is embedded within the Council.**

8.29. We will establish clear leadership to drive the embedding and continuous improvement of sustainable procurement within the Council.

8.30. We will communicate this policy and accompanying guidance to all Council staff.

8.31. We will undertake an assessment of third-party expenditure with a value of over £10,000, to identify those contracts associated with the highest risk and greatest opportunity for improvement. This will be based on an analysis of spend, risk, scope for improvement and our influence of the market.

8.32. We will develop and continuously improve the sustainable procurement skills and knowledge of Council staff involved in procurement activities. This will include those responsible for identifying a need to procure goods, services and works, those involved in evaluating tenders and those responsible for contract and supplier management.

8.33. We will subject all major requirements for goods, services and works to a sustainability test during the development of procurement plans. This will question whether requirements can be reduced or avoided altogether by delivering outcomes in other ways; that social, economic and environmental impacts and benefits have been identified and that whole life-cycle costs have been considered.

8.34. Where relevant, we will include sustainability criteria in tender documentation and our tender evaluation process.

8.35. We will measure and report on our progress in embedding and continuously improving sustainable procurement and its contribution to delivering sustainable outcomes annually.

8.36. We will introduce a Sustainable Procurement Impact Assessment (SPiA) for all relevant goods, services and works contracts where there is potential to minimise the use of carbon-based energy and its associated emissions. See Annex One to this policy.

8.37. The SPiA implementation and usage will be reported on an annual basis in the Council Procurement Annual Report.

8.38. We will consider where appropriate the use of lotting strategies to maximise access to contract opportunities by smaller contractors and to optimize the contribution to a circular economy in Orkney.

### **9. Other relevant policies and procedures**

Sustainable procurement also contributes to delivery of a range of Council policies and strategies, some of which have reporting requirements relating to procurement activities. These include:

- The Equality Act 2010 and The Equality Act 2010 (Specific Duties) (Scotland) Regulations 2012.
- The Council's climate change targets and carbon management plan (including the annual Climate Change Reporting requirements).
- The Council's environmental management and waste management procedures.

Sustainable procurement can also make a significant contribution to the development of the 'Circular Economy' by adopting the principles of ['Making Things Last – A Circular Economy Strategy for Scotland'](#). In a circular economy, systems are designed to make better use of valuable products and materials – changing the way they are produced and managed to have less impact on finite natural resources and create greater economic benefit.

## **10. Monitoring and Reporting**

The Council's progress in sustainable procurement will be reported as part of our annual procurement report. The annual procurement report is a requirement of the Procurement Reform (Scotland) Act 2014. We will use this report to demonstrate compliance with other legislation that places specific requirements on the Council with respect to our procurement activities, for example, the Equality Act 2010 and The Equality Act 2010 (Specific Duties) (Scotland) Regulations 2012.

## **11. Review**

We will review this Policy on an annual basis to ensure that it remains in line with the Council's Procurement Strategy and the Council's Delivery Plan. The actions from this updated Policy will be incorporated into the next Procurement Strategy which will be reviewed in 2022 and subsequently reported on an annual basis in the Procurement Annual Report.

## Annex 1



## Sustainable Procurement Impact Assessment

The purpose of a Sustainable Procurement Impact Assessment (SPiA) is to improve the work of Orkney Islands Council by ensuring that its procurement activities contribute to the social, economic and environmental well-being of our remote and fragile islands communities, both now and in the future.

This assessment records the likely impact of any procurement exercise, by anticipating the consequences, and making sure that any negative impacts are eliminated or minimised and positive impacts are maximised.

<b>1. Intended Procurement exercise</b>	
Description of the intended procurement exercise	
Service / service area responsible.	
Name of person carrying out the assessment and contact details.	
Date of assessment.	
Is the function new or existing?	
<b>2. Initial Screening</b>	
What are the intended outcomes of the procurement exercise?	

<p>State who is, or may be affected by this procurement exercise, and how.</p>	
<p>Have stakeholders been involved in the development of this procurement exercise, and if so how?</p>	
<p>Is there any existing data and / or research relating to sustainable procurement issues in this area? Please summarise.</p> <p>E.g. consultations, national surveys, performance data, complaints, service user feedback, academic / consultants' reports, benchmarking</p>	
<p>Could the procurement have a differential impact on any of the following sustainable procurement strands?</p>	
<p><b>1. Supply Chain:</b> Will the procurement of goods, services and works contribute to achieving our vision of a truly sustainable supply chain.</p>	<p>Yes/No.</p>
<p><b>2. Climate Change:</b> Will the procurement minimise contribution to climate change and support goods, services and works that are well-adapted to the consequences of a changing climate.</p>	<p>Yes/No.</p>



<p><b>3. Whole life-cycle costs:</b> Will the procurement deliver value for money by realistically assessing, where appropriate, the whole life-cycle costs of the goods, services and works procurement and not simply considering the initial purchase price?</p>	Yes/No.
<p><b>4. Fair and open competition:</b> Will the procurement activity comply with the public procurement framework and our Contract Standing Orders, which are intended to promote fair and open competition.</p>	Yes/No.
<p><b>5. Social, economic and environmental impact:</b> Will the procurement ensure that when developing our requirements for goods, services and works, the possible social, economic and environmental impacts of our procurement are assessed as actively seeking to contribute to the social, economic and environmental well-being of our remote and fragile island communities.</p>	Yes/No.
<p><b>6. Engagement with the market:</b> Where appropriate to the subject matter of the contract, is pre-market engagement and consultation to be undertaken for this to consider sustainability issues for this procurement?</p>	Yes/No.
<p><b>7. Places, people and other species:</b> Will this procurement of goods, services and works impact negatively on places, people and other species both locally and elsewhere?</p>	Yes/No.

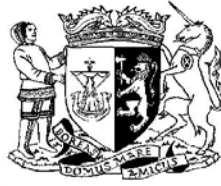
<p><b>8. Meeting the needs of People:</b> Where appropriate will consultation take place with the people whose needs we aim to meet through our procurement to ensure that we procure goods, services and works that meet their needs?</p>	Yes/No.
<p><b>9. Equality Issues:</b> Will this procurement not intentionally discriminate against specific groups of people when undertaking our procurement activities and promote equality in line with legislative requirements?</p>	Yes/No.
<p><b>10. Modern Slavery Act 2015:</b> Where appropriate will this procurement exercise support the aims of the Modern Slavery Act 2015 and ensure that our suppliers provide us with confirmation of their compliance with the Act?</p>	Yes/No.
<p><b>11. Isles Proofing:</b> Have the effects of isles proofing been considered where appropriate and in light of the anticipated guidance issued by the Scottish Government.</p>	Yes/No
<p><b>12. Fair Work First:</b> Will this procurement exercise include adoption of the Fair Work First principles where this is appropriate to the subject matter of the contract.</p>	Yes/No
<p><b>3. Impact Assessment</b></p>	
<p>Does the analysis above identify any differential impacts which need to be addressed?</p>	Yes/No.
<p>How could you minimise or remove any potential negative impacts?</p>	
<p>Do you have enough information to make a judgement? If no, what information do you require?</p>	Yes.

<b>4. Conclusions and Planned Action</b>	
Is further work required?	Yes/No.
What action is to be taken?	
Who will undertake it?	
When will it be done?	
How will it be monitored? (e.g. through service plans).	

Signature:

Name: (BLOCK CAPITALS).

Please sign and date this form, keep one copy and send a copy to the Procurement Manager. A Word version should also be emailed to [procurement@orkney.gov.uk](mailto:procurement@orkney.gov.uk)



**ORKNEY**  
ISLANDS COUNCIL

# **Driving at Work Policy**

**March 2022 – March 2024**

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## 1. Introduction.

- 1.1 Orkney Islands Council recognises the importance of protecting employees and others from the hazards associated with work related driving.
- 1.2. This document outlines the Council's corporate policy for work-related driving using Council and employees' own vehicles. It describes what we are aiming to achieve and how we will do it. Linked policies and guidance include:
  - Health and Safety Policy.
  - Health and Safety Risk Assessment Guidance.
  - Adverse Event Reporting and Investigation Guidance.
  - Substance Misuse Policy.
  - Lone Working Policy.
  - Smoking Policy.
  - Use of Council Vehicles Outside Normal Hours Policy.
  - Travel Policy.
  - Driving at Work Handbook.
  - Employee Expenses General Guidance Document.
- 1.3. All of the above policies are available on the Council Intranet, or from your line manager.

## 2. Legal Requirements.

- 2.1. Implementation of the Driving at Work Policy will ensure that the Council meets its legal obligations under the Health and Safety legislation.
- 2.2. Drivers and those operating vehicles on behalf of the Council have a duty to observe road traffic law, some of which are administered by the Police and other agencies such as the Driver and Vehicle Standards Agency (DVSA).
- 2.3. We also expect all employees to observe the normal rules of the road as set out in the Highway Code.

## 3. Scope.

- 3.1. This policy and guidance will apply to:
  - Any driving activity undertaken during the course of work – this relates to the use of fleet plant and vehicles, pooled cars and private cars but will also include motorcycles, bicycles and all other categories of vehicles. Driver of fleet plant and vehicles will also need to comply with the specific instructions and guidance relating to these vehicles which should be obtained from the manufacturer, hirer or line manager.
- 3.2. It **excludes** commuting from home to your normal place of work but **includes** travel direct from home to a location that is not your normal work base.

- 3.3. The Driving at Work Handbook relates to the arrangements and procedures for all staff using a vehicle for Council business and includes fleet drivers and vehicles.

## **4. Duties and Responsibilities.**

### **4.1. Chief Executive.**

The Chief Executive, so far as is reasonably practicable, is responsible for ensuring the health, safety and welfare at work of all Council employees and others who may be affected by the Council's work operations. This will be achieved in accordance with the duties contained within the Council's Health and Safety Policy and associated guidance.

### **4.2. Corporate Directors/ Chief Officer.**

Responsible for ensuring arrangements are in place to check on the driving licences of employees in their service who are required to drive a vehicle on Council business as outlined in this policy and associated Driving at Work handbook.

### **4.3. Heads of Service.**

Ensure during the recruitment process that prospective employees who may be required to drive Council vehicles, hold a full valid UK driving licence containing a category of licence for the type of vehicle they will or may be required to drive as part of that employment. Ensure arrangements are in place to comply with this Policy and related Handbook.

### **4.4. Line Managers.**

- Ensure during the recruitment process that prospective employees who may be required to drive Council vehicles, hold a full valid UK driving licence containing a category of licence for the type of vehicle they will or may be required to drive as part of that employment.
- Will ensure a suitable and sufficient risk assessment is completed in respect of the driving activity.
- Should ensure that all drivers are provided with a copy of the Council's Driving at Work Handbook.
- Must refer staff who drive at work to Occupational Health if they suspect or receive a report which indicates that they have a health problem which could affect their ability to drive safely. The employee will be reassigned to non-driving duties pending the receipt and consideration of an Occupational Health report.

### **4.5. All Drivers.**

Whilst using a vehicle on Council business, all drivers will:

- Comply with the terms of this Policy and Driving at Work Handbook.
- Comply with the requirements of road traffic legislation.
- Comply with relevant sections of the Highway Code.

- Ensure that their licence is valid, that it covers the class of vehicle to be driven on Council business and that their driving complies with any conditions attached to that licence.
- Report any pre-existing notifiable medical conditions or the development of such a condition whilst in the employment of the Council to their Line Manager and the Driver and Vehicle Licensing Agency.
- Be able to satisfy the eyesight requirements set out in the Highway Code. If glasses or other corrective appliances are required to achieve this then they must be worn when driving.
- Report all traffic offences, licence endorsements or pending prosecutions to their line manager to enable the assessment of risk associated with a driving activity.
- HGV drivers must also report any offences, licence endorsements or pending prosecutions to the Fleet Manager in order to comply with Operator's Licence requirements.
- HGV drivers must carry their driving qualification documents, explicitly their Driving Licence, Certificate of Professional Competence (CPC card) and digital driver tachograph card (Digi-card) whilst driving on Council business.
- Drivers of HGV vehicles operated under the Council's Operator's Licence must also understand the commission or omission of any offence may impact on the ability of the Council to deliver services using vehicles covered by that licence.
- Where prosecuted or issued with a fixed penalty notice as a result of committing a motoring offence whilst driving on Council business will be personally responsible.
- Not consume alcohol or drugs (other than appropriate use of prescribed drugs and proprietary medicines) in the course of the working day or shift, including paid or unpaid breaks and standby duties and should ensure that their performance is not impaired by alcohol, drugs or prescribed drugs and proprietary medicines consumed out with working hours.
- Receive and refer to the Driving at Work Handbook before commencing any driving activity on behalf of the Council.
- Before driving a vehicle in connection with the business of the Council ensure relevant checks are carried out in accordance with the Driving at Work Handbook.
- Comply with the terms of any risk assessment.
- Not carry pets within the vehicle whilst used on Council business.

#### **4.6. Fleet Manager.**

- Ensure HGV licences are checked annually in line with the Operator's licence.
- Ensure matters arising from defect reports or driver's hours are completed for vehicles operating under the scope of the Operator's licence.



#### **4.7. Safety and Resilience Manager.**

- Administer arrangements surrounding the Orkney Islands Council Driving at Work Policy and Handbook.

### **5. Risk Assessment.**

- 5.1. The risk assessment procedure will apply to work related driving as it does in respect of any other work activity. The details contained within the Council's Health and Safety Policy and Health and Safety Risk Assessment Guidance will assist with the risk assessment process.
- 5.2. The most effective form of risk control is to eliminate the hazard. Therefore, it is important to consider whether a work-related driving activity is necessary. In the case of fleet operations, driving may be unavoidable, but the use of private vehicles may be avoidable by Teams or other means.
- 5.3. Where journeys are unavoidable then factors relating to the driver, the vehicle and the journey should all be considered in terms of risk.
- 5.4. The following risk information and guidance relates to journeys and journey planning and should be considered as part of the risk assessment procedure.

#### **Routes and Scheduling**

- 5.5. Where possible, routes which are regularly used should be planned to avoid risk (for example refuse collection routes to avoid crossing busy roads to empty bins).
- 5.6. Sufficient time must be allowed to complete journeys safely. Suitable breaks from continuous driving should be undertaken. The Highway Code, Rule 91 recommends generally a 15-minute break after 2 hours continuous driving.
- 5.7. Drivers of heavy goods vehicles or passenger goods vehicles must not drive for more than 4 hours without a sufficient break period and in any working day the maximum amount of driving permitted is 11 hours. This applies to driving on and off the public road.
- 5.8. Where relevant heavy goods vehicles are to be driven on the Scottish Mainland, drivers must first speak to the Fleet Manager to discuss the use of tachographs.

#### **Distance.**

- 5.9. Managers should consider whether long road journeys such as those to attend business on mainland Scotland can be avoided using alternative forms of public transport in accordance with the travel policy.
- 5.10. Where long journeys are unavoidable then consideration should be given to means of preventing driver fatigue. This should include scheduling breaks and possibly organising overnight accommodation for the driver. A risk assessment needs to be undertaken and approved prior to the start of any journey.

- 5.11. Regardless of any time constraints, all drivers should be made aware that if they feel tired whilst driving, they must stop in a safe place and take a suitable rest. They should not recommence the journey until the feeling of tiredness has passed.

### **Weather.**

- 5.12. Drivers should consider weather and tidal conditions before they embark on journeys and managers should apply the same criteria about their risk assessment of the pending journeys. Weather hazards include snow, ice, flooding, wave over-topping and debris. Drivers and managers should pay attention to local and national weather forecasts and in particular any weather warnings that may be issued for and on route to the anticipated travel location.
- 5.13. Drivers should not be expected to make non-essential (non-emergency) journeys when weather conditions are exceptionally difficult. If the weather deteriorates during the course of a journey, then the driver should determine whether it is safer to complete the journey or return to the work base.
- 5.14. Journeys should, wherever possible, be rescheduled to take account of adverse weather conditions.
- 5.15. During winter months the weather can change suddenly. It is important therefore that drivers take great care before setting out and returning on a journey and ensure that the vehicle is equipped for conditions that may arise. In this respect it is important to ensure the safety checks contained within the Driving at Work Handbook are carried out.
- 5.16. Particular attention should be given to the crossing of the Churchill Barriers at times of high winds and tide. Drivers and managers should check whether the Churchill Barriers are open and / or are likely to close and be mindful of the return journey. For those who have access to social media / Portal, etc., details can be found on the OIC Updates Facebook page, OIC Roads Twitter feed and on the Council's Portal home page.
- 5.17. During periods of inclement weather, Police Scotland will offer advice to motorists which will be categorised as follows: Travel with caution; High risk of disruption or Avoid travel on the roads. These will not be issued in isolation and will come with a descriptor and links where additional advice can be sought. Usually, these warnings will follow warnings issued by the MET Office National Severe Weather Warning Service. Drivers should always drive appropriate to the conditions and line managers should ensure that where warnings are issued appropriate risk assessments are carried out. Further advice is contained within the Travel Policy.

## **6. Green and Active Travel.**

- 6.1. Walking, wheeling and cycling, known collectively as active travel, can be incorporated into our daily lives with little effort or cost. It is the easiest and most cost-effective way to exercise and carry out purposeful journeys such as getting to and from work. Active travel can therefore provide health benefits, save money

and create a nicer environment to live in by reducing the number of cars on our roads and thus reduce harmful CO2 emissions.

- 6.2. More information on Green Travel can be found in Orkney's [Green Travel Plan](#).

## **7. Authorisation and use of Council vehicles by Council employees.**

- 7.1. Employees will not be allowed to drive / operate a Council vehicle unless authorised to do so by their line manager.
- 7.2. As part of the authorisation process the employee must provide original documentary evidence which will be examined as outlined in this policy. Drivers who are unable to provide the evidence of competency to drive will be unable to drive vehicles or carry out any driving related activity until this has been resolved.
- 7.3. Vehicles will only be used for the purposes of Council business, and by such persons and in such a manner as the Chief Executive, Executive Director or Chief Officer directs. Private use of Council vehicles / plant is not permitted. Use of Council vehicles and plant for personal matters is regarded as a disciplinary matter and could constitute a criminal offence. The cost of any loss, damage or liability, incurred by the Council, by an employee using a vehicle without permission will be recovered from the individual.
- 7.4. Travel to or from work in a Council vehicle will not normally be permitted unless it is an emergency or there is an overriding operational reason, such as standby duties previously agreed by the employee's line manager. The unofficial or unauthorised use of a Council vehicle including the carrying of unauthorised passengers is prohibited in accordance with the Use of Council Vehicles Outside Normal Hours Policy.
- 7.5. All use of vehicles will be recorded in such logbooks, defects books and drivers' hours' log as the Chief Executive, Executive Director or Chief Officer, in consultation with the Fleet Manager, may require.
- 7.6. Drivers of fleet vehicles will be provided with a copy of the Council's Driving at Work Handbook which contains advice and information on a variety of road safety topics. Managers and supervisors of fleet drivers should ensure that the contents of the handbook are discussed with drivers at workplace meetings to reinforce the road safety and operational requirements relating to fleet vehicles.
- 7.7. In addition to a vocational licence, all drivers of goods vehicles over 3.5 tonnes and all passenger carrying vehicle (PCV) drivers are required to hold a Certificate of Professional Competence (CPC). One exemption from Driver CPC is for vehicles used for the non-commercial carriage of passengers or goods for personal use. All drivers of goods vehicles over 3.5 tonnes must complete 35 hours periodic training every five years after the initial period until they stop driving.

7.8 Council vehicles being used out with Orkney will also require to be covered by breakdown cover. Cover should be arranged with the Insurance Officer prior to travel with a breakdown card uplifted from the Fleet Manager.

7.9. All drivers will comply with the requirements as outlined in Section 4.5 of this Policy.

## **8. Authorisation and use of private vehicles by Council employees on Council business.**

8.1. Employees will not be allowed to drive a vehicle on Council business unless authorised to do so by their line manager.

8.2. As part of the authorisation process the employee must provide original documentary evidence which will be examined. Drivers who are unable to provide evidence of competency will be unable to drive vehicles or carry out any driving related activity until this has been resolved. Drivers will not be reimbursed in respect of any claim for mileage until the above conditions have been fulfilled. There is no requirement for services to retain evidence of the business use requirement, however this check must be carried out at least annually.

8.3. Where the employee intends to use more than one private vehicle for driving on Council business, they will be asked to provide proof of insurance for business use and a valid MOT certificate for each vehicle.

8.4. Reimbursement will only be made in respect of mileage. Reimbursement of any expenses for the authorised business use of a private vehicle will be made at the agreed rates for Elected Members and staff who are properly insured in respect of that vehicle for business use. For details on how to claim mileage, please refer to the Employee Expenses General Guidance Document.

## **9. Authorisation for Council employees driving a Hire Car on Council business in Orkney.**

9.1. Car hire should only be permitted, where it can be proven to be the most cost-effective method of transportation. Car hire should be restricted and should only be granted in the interest of personal safety, when time is constrained or where suitable public transport is not available.

9.2. Car hire arrangements on the outer islands are extremely limited and before travelling you should ensure any availability.

9.3 An employee must be approved to hire a car and specific authorisation must be obtained from a Head of Service prior to the date of travel. Once agreement has been reached, details of the vehicle, period of hire and driver should be sent to the Insurance Officer.

9.4. Car hire out with Orkney is detailed in the Travel Policy.

- 9.5 Upon receipt of the vehicle, the driver should undertake checks in accordance with the Driving at Work Handbook Section 4.

## **10. Members of Voluntary Organisations driving Council Vehicles.**

- 10.1. Voluntary Organisation drivers will only be permitted to drive a Council vehicle if their name appears on the Authorised Driver Database which is updated and distributed to the Services which have vehicles used by the Voluntary Sector. This will be in accordance with the Code of Practise for the Use of Orkney Islands Council Vehicles by the Voluntary Sector Organisations.

## **11. Health and Disability.**

- 11.1. Some medical conditions or disabilities may affect a driver's entitlement to hold a driving licence for certain categories of vehicle or have a condition attached to the licence requiring compliance e.g. wearing of glasses. It is the driver's responsibility to seek advice from their doctor if suffering from any illness or disability which may affect their driving ability. If a driver has a medical condition or disability which may affect their ability to drive or hold a vocational licence, they must inform their line manager and the DVLA immediately. This includes where an existing condition deteriorates, or a new condition develops.
- 11.2. A medical test must be carried out on all drivers applying for a vocational driving licence prior to being granted a provisional licence / licence. After the age of 45 a medical has to be carried out every five years until the age of 65 when it becomes an annual requirement.

## **12. Vehicles.**

- 12.1. The following requirements relate to vehicles / plant and should be considered as part of the risk assessment process outlined in section 4.

### **Suitability.**

- 12.2. The Council is responsible for the procurement, supply, maintenance and repair and licensing of fleet vehicles and plant for Council services.
- 12.3. The Council will ensure that all vehicles meet the specification for operational usage set out by the ordering service and are fit for purpose when submitting requests for new and / or replacement assets.
- 12.4. The vehicle you may be given to use could be a conventional ICE (internal combustion engine), electric vehicle or hydrogen powered. In addition to the conventional checks listed within the Driving at Work Handbook, you may require additional familiarisation in relation to these vehicle types.

**Condition.**

- 12.5. Fleet vehicles are maintained by the Council, but drivers are required to carry out regular basic safety checks in accordance with the Drivers Checks and Defect Reporting arrangements in the Driving at Work Handbook.

**Safety features and information.**

- 12.6. All drivers should carry out regular basic safety and familiarisation checks in accordance with the OIC Driving at Work Handbook vehicle safety section.
- 12.7. The Council vehicle you are using may be fitted with telematics which can give important information with regard to the GPS position of a vehicle, its speed and direction. On no account should this be interfered with as part of a normal driving operation.

**13. Transporting Passengers.**

- 13.1. Vehicles and plant owned or hired by the Council must only be used to carry goods and passengers on properly authorised Council business. Authority is only given when:

- The journey / operation is for official council business and / or,
- The employee is acting on the instructions of an authorised officer of the Council.

- 13.2. Only the following authorised passengers will be carried in Council vehicles:

- Council employees engaged in work for and on behalf of the Council.
- Persons, not Council employees, who are properly authorised and who are engaged on work for and on behalf of the Council.
- Persons being carried in the event of an emergency.
- Persons being transported as part of a Council service.

**14. Insurance for Council Vehicles.**

- 14.1. The Council maintains insurance for its motor fleet and hired-in plant. Cover is strictly for Council business only, with no other use being permitted.
- 14.2. The only exception to this is vehicles which are covered for use by certain approved Voluntary Charitable or Welfare Groups.
- 14.3. Certificates of Motor Insurance are available on request from the Council's Insurance Officer.

## **15. Minibus Driving.**

- 15.1. Minibuses are defined as a motor vehicle designed or adapted to carry more than 8 but not more than 16 seated passengers in addition to the driver. A Council minibus will not be regarded as a public service vehicle (PSV) if it is not operated for hire and reward.
- 15.2. All employees who drive a Council minibus must hold a category D1 driving licence. In addition, some non-profit making operations that fall into the definition of hire and reward may be undertaken under the cover of a section 19 or 22 permit, contained within the Transport Act 1985, which may avoid the requirement for the operator to hold a Public Service Vehicle Operator (PSV'O') licence. Consult the Fleet Manager if you require clarification.
- 15.3. Where identified by way of risk assessment, additional training such as the Minibus Driver Awareness Scheme (MIDAS) should be provided for Council minibus drivers.

## **16. Motorcycles and Bicycles.**

### **Motorcycles.**

- 16.1. The Council will authorise the use of a motorcycle for work related driving subject to:
- The driver holding a current licence relating to the class of vehicle.
  - The motorcycle being maintained in a roadworthy condition.
  - The driver wearing a helmet and other protective clothing to comply with legal requirements and the relevant sections 83 to 88 of the Highway Code.
  - Compliance with all other relevant aspects of this policy with particular reference to the requirement for risk assessment and the need for insurance cover including business use and, where required, a MOT certificate.

### **Bicycles (including e-bikes).**

- 16.2. The use of bicycles and e-bikes for work purposes is permitted subject to the cyclist wearing the following outlined in the Highway Code:
- A cycle helmet which conforms to current regulations is the correct size and securely fastened.
  - Appropriate clothes for cycling, avoiding clothes which may get tangled in the chain or wheels or obstruct the lights.
  - Light coloured or fluorescent clothing easily visible to other road users both during normal daylight and poor light.
  - Reflective clothing and / or accessories (belt, arm or ankle bands) in the dark.
- 16.3. The bicycle or e-bike must be maintained in a roadworthy condition and be suitably adjusted to fit the physical requirements of the rider as outlined in the Highway Code.

- 16.4. The cyclist should also conform to all other requirements set out in sections 59 to 82 of the Highway Code.

## 17. Use of Mobile Phones in Vehicles.

- 17.1. It is an offence to use a hand-held mobile phone while driving a vehicle.
- 17.2. It is also an offence for an employer to encourage or permit employees to use handheld mobile phones while driving.
- 17.3. The Council Policy is that whilst driving vehicles in the course of Council business, all drivers will not use any hand-held or hands-free device. This is aligned to the following guidance, found in the Highway Code:

### *Rule 149*

*You **MUST** exercise proper control of your vehicle at all times. You **MUST NOT** use a hand-held mobile phone, or similar device, when driving or when supervising a learner driver, except to call 999 or 112 in a genuine emergency when it is unsafe or impractical to stop. Never use a hand-held microphone when driving. Using hands-free equipment is also likely to distract your attention from the road. It is far safer not to use any telephone while you are driving or riding - find a safe place to stop first or use the voicemail facility and listen to messages later.*

*The law still applies to you if you're stopped at traffic lights or queuing in traffic.*

## 18. Smoking in Vehicles.

- 18.1. The Prohibition of Smoking in Certain Premises (Scotland) Regulations 2006 were issued under the authority of the Smoking, Health and Social Care (Scotland) Act 2005. The Regulations, among other things, specify premises where smoking is prohibited and premises where smoking rooms may be allowed. Schedule 1 of the Regulation include vehicles used for work.
- 18.2. On 5 December 2016, it became an offence in Scotland to smoke within a vehicle if there was a child under 18 years of age present in the vehicle whilst in a public place.
- 18.3. The Council's Smoking Policy prohibits smoking in all Council-owned vehicles or in leased or private vehicles during work duties.
- 18.4. All Council-owned vehicles must have the prescribed legal notice displayed to indicate that smoking is not permitted in the vehicle.
- 18.5. None of the foregoing applies to e-cigarettes, however it will be Council Policy to prohibit the use of e-cigarettes in the same way as smoking.



## **19. Accidents and Support.**

### **Accident Procedure.**

- 19.1. If a driver is involved in an accident whilst driving at work which has caused injury to persons, property, other vehicles and animals (horse, cattle, ass, mule, sheep, pig, goat or dog) not carried in a vehicle then the driver must stop and report the incident to the police.
- 19.2. In the event of an accident whilst driving at work the driver should:
- Stop the vehicle in a safe place, turn off the engine and switch on the hazard lights.
  - Call the appropriate emergency services, if required.
  - Take photographs where appropriate and safe to do so.
  - Complete the accident card.
  - Tear off the right-hand side of the card and pass to the other driver.
  - Contact his or her line manager; the Fleet Manager; and the Insurance Officer.
  - Not attempt to move the vehicle until advised by the Police and it has been checked that it is safe to drive.
  - The driver should not admit liability.
- 19.3. The driver is also legally required to supply personal details and details of their insurance to the Police and other drivers; if the insurance information is not available in the vehicle then the Police must be notified of the details as soon as is reasonably practicable and in any case within 7 days of the accident. This will remain the responsibility of the driver and the appropriate insurance details can be obtained from the Council Insurance Officer or through the line manager.

### **Accident Reporting.**

- 19.4. All accidents involving driving at work, which result in damage and / or personal injury to the driver and passengers must be notified to the Line Manager at the earliest opportunity and should thereafter be recorded on the Council's Adverse Event form and forwarded to the Council's Safety and Resilience service.
- 19.5. Line managers should investigate accidents involving driving at work to determine whether there was an underlying occupational risk. The risk assessment process outlined in section 5 of this policy should be reviewed to include any additional control measures identified to help prevent a recurrence. Reference should also be made to the Council's Adverse Event Reporting and Investigation Guidance.
- 19.6. In the event of an incident involving a Council fleet vehicle an incident report should be completed by the Service Manager responsible for the vehicle / driver and forwarded to the Fleet Manager. This will be reviewed by the Fleet Manager who will advise the respective Line Manager if further investigation is required. If further investigation is required the lead officer, supported by the Fleet Manager would focus on the immediate and underlying causes of the accident, from which

an accident investigation report would be produced, this would be reviewed, and any remedial action(s) implemented by the relevant Executive Director in consultation with the Head of Service and Safety and Resilience service.

### **Post-accident Support.**

- 19.7. Line managers should ensure that appropriate information on sources of external counselling is provided to drivers who are involved in work related driving accidents, depending on the severity of the incident and the potential impact the incident may have on the drivers' ability to resume normal duties. In certain circumstances it may be necessary to consider reassignment to non-driving duties for a period of time.

## **20. Reversing.**

- 20.1. Nearly a quarter of deaths involving vehicles at work occur during reversing. Many other reversing accidents do not result in injury but can cause costly damage to vehicles, equipment and premises. Most of these accidents can be avoided by taking simple precautions.
- 20.2. The best way to avoid reversing accidents is to remove the need for reversing altogether. Where reversing is unavoidable, routes should be organised to minimise the need for reversing. The following may not necessarily be pertinent to all drivers, however due to the risks associated with reversing large vehicles will be mandatory where reversing cannot be avoided:
- Reversing areas should be planned out and clearly marked.
  - People who do not need to be in reversing areas should be kept well clear.
  - Using a trained signaller (also known as a banksman) both to keep the reversing area free of pedestrians and to guide you as the driver. A banksman will be mandatory for certain reversing tasks which will be identified in the job risk assessment and method statement.
  - You should ensure your banksman is visible to you and is wearing highly visible clothing such as an appropriate reflective vest.
  - If you lose sight of your banksman you should stop your vehicle immediately.

For further advice and guidance on reversing of vehicles, please follow the link below: <http://www.hse.gov.uk/workplacetransport/information/reversing.htm>.

## 21. Document Control Sheet

Review / approval history.

Date.	Name.	Position.	Version Approved.
11 October 2016.	General Meeting of the Council.	n/a.	Version 1.0.
October 2019.	General Meeting of the Council.	n/a	Version 1.1.
13 January 2022.	Approved by SMT,		Version 1.7.
1 March 2022.	Update of Roles		Version 1.7.
March 2022.	General Meeting of the Council.		Version 1.7.

Change Record Table.

Date.	Author.	Version.	Status.	Reason.
October 2019.	Alan Tait and Les Donaldson.	1.1.	Final.	Reviewed and updated earlier version.
October 2021.	Les Donaldson.	1.7.		Reviewed and updated.

## **Appendix 1: Safe Driving Summary.**

**Drivers are responsible for ensuring that their vehicle is always in a roadworthy condition and that they comply with the relevant Legislation and Council policy. In addition, they should:**

- Drive safely and in accordance with the Highway Code.
- Be aware of and comply with Health and Safety requirements.
- Observe speed limits.
- Ensure that they hold a valid and current licence for the category of vehicle they drive.
- Remove any identification lanyards whilst driving. The force of an airbag inflating is fairly severe, so any plastic or metal object in the chest / torso area has the potential to cause injury if it gets pushed back into the body.
- You should not have any loose material in the cab/ front of the vehicle / in your lap when driving for work as these may cause injury in the event of an accident.
- Ensure the safety and comfort of passengers.
- Report any accidents whilst driving at work.
- Inform the Council immediately in the event of any change in medical condition or medication that a GP may reasonably judge as impacting on an employee's ability to undertake his/her duties.
- Notify the Council immediately when a change occurs and / or in advance of accepting employment or any change to roles or responsibilities.
- Inform the Council and the DVLA of any medical condition or disability that affects their ability to drive.
- Maintain control of the vehicle at all times.
- Take particular care when reversing and only reverse when it is absolutely necessary.
- Ensure that the vehicle is insured for business use.
- Report defects immediately.
- Keep the vehicle clean.
- Present the vehicle promptly for safety checks / servicing.
- Always ensure that the vehicle is correctly loaded.
- Comply with the Regulations in respect of Drivers' Hours and the keeping of work records, where appropriate.
- Advise their line manager of any work, especially driving, that they undertake for another employer.
- In the event of an accident or breakdown, not put themselves or any passengers at risk.
- Carry out regular vehicle maintenance checks

**Drivers should not:**

- Consume alcohol or drugs (other than appropriate use of prescribed drugs and proprietary medicines) in the course of the working day or shift, including paid or unpaid breaks and should ensure that their performance is not impaired by alcohol consumed prior to starting work.
- Drive a vehicle whilst ill or taking medication unless a doctor has confirmed it is safe to do.
- Drive with poor eyesight. If prescribed, spectacles or corrective lenses must be worn.
- Use a mobile phone whilst driving unless by means of a hands-free kit, or Bluetooth.
- Drive or continue to drive if they are tired.
- Use any vehicle or operated equipment for any other purpose than in connection with their duties.

Appendix 9.

**Corporate Risk Register – January 2022**

Pages 1914 to 1943.

# Corporate Risk Register – January 2022

## Strategic Risks

Cluster.	Risk Number.	Risk.	Owner.
Physical.	1.	Ferries.	Corporate Director for Enterprise and Sustainable Regeneration.
Financial.	2.	Finance.	Corporate Director for Enterprise and Sustainable Regeneration.
Reputational.	3.	Adverse Communications.	Chief Executive.
Physical.	4.	Workforce.	Head of Human Resources and Organisational Development.
Physical.	5.	Asset Management.	Corporate Director for Neighbourhood Services and Infrastructure.
Economic.	6.	Economic.	Corporate Director for Enterprise and Sustainable Regeneration.
Technological.	7.	Cyber Security.	Corporate Director for Neighbourhood Services and Infrastructure.
Technological.	8.	Connectivity.	Corporate Director for Enterprise and Sustainable Regeneration.
Partnership.	9.	Partnerships.	Corporate Director for Strategy, Performance and Business Solutions.
Legislative.	10.	Procurement.	Corporate Director for Neighbourhood Services and Infrastructure.
Legislative.	11.	Health and Safety.	Corporate Director for Neighbourhood Services and Infrastructure.
Economic.	12.	EU exit.	Chief Executive and Head of Marine Services and Transportation.
Financial.	13.	Housing.	Corporate Director for Education, Leisure and Housing.
Professional.	14.	Childcare Services.	Corporate Director for Education, Leisure and Housing.
Physical.	15.	Pandemic.	Corporate Director for Neighbourhood Services and Infrastructure.
Legislative.	16.	Children and Young People.	Chief Officer, Orkney Health and Care.

## Risks by cluster

Cluster.	Risk Number.	Risk.	Owner.
Economic.	12.	EU exit.	Chief Executive and Head of Marine Services and Transportation.
Economic.	6.	Economic.	Corporate Director for Enterprise and Sustainable Regeneration.
Financial.	2.	Finance.	Corporate Director for Enterprise and Sustainable Regeneration.
Financial.	13.	Housing.	Corporate Director for Education, Leisure and Housing.
Legislative.	16.	Children and Young People.	Chief Officer, Orkney Health and Care.
Legislative.	11.	Health and Safety.	Corporate Director for Neighbourhood Services and Infrastructure.
Legislative.	10.	Procurement.	Corporate Director for Neighbourhood Services and Infrastructure.
Partnership.	9.	Partnerships.	Corporate Director for Strategy, Performance and Business Solutions.
Physical.	5.	Asset Management.	Corporate Director for Neighbourhood Services and Infrastructure.
Physical.	1.	Ferries.	Corporate Director for Enterprise and Sustainable Regeneration.
Physical.	15.	Pandemic.	Corporate Director for Neighbourhood Services and Infrastructure.
Physical.	4.	Workforce.	Head of Human Resources and Organisational Development.
Professional.	14.	Childcare Services.	Corporate Director for Education, Leisure and Housing.
Reputational.	3.	Adverse Communications.	Chief Executive.
Technological.	7.	Cyber Security.	Corporate Director for Neighbourhood Services and Infrastructure.
Technological.	8.	Connectivity.	Corporate Director for Enterprise and Sustainable Regeneration.



## Risks by owner

Owner.	Cluster.	Risk Number.	Risk.
Chief Executive.	Reputational.	3.	Adverse Communications.
Chief Executive and Head of Marine Services and Transportation.	Economic.	12.	EU Exit.
Head of Human Resources and Organisational Development.	Physical.	4.	Workforce.
Corporate Director for Strategy, Performance and Business Solutions.	Partnership.	9.	Partnerships.
Corporate Director for Neighbourhood Services and Infrastructure.	Physical.	5.	Asset Management.
Corporate Director for Neighbourhood Services and Infrastructure.	Technological.	7.	Cyber Security.
Corporate Director for Neighbourhood Services and Infrastructure.	Legislative.	10.	Procurement.
Corporate Director for Neighbourhood Services and Infrastructure.	Legislative.	11.	Health and Safety.
Corporate Director for Neighbourhood Services and Infrastructure.	Physical.	15.	Pandemic.
Corporate Director for Education, Leisure and Housing.	Financial.	13.	Housing.
Corporate Director for Education, Leisure and Housing.	Professional.	14.	Childcare Services.
Corporate Director for Enterprise and Sustainable Regeneration.	Physical.	1.	Ferries.
Corporate Director for Enterprise and Sustainable Regeneration.	Economic.	6.	Economic.
Corporate Director for Enterprise and Sustainable Regeneration.	Technological.	8.	Connectivity.
Corporate Director for Enterprise and Sustainable Regeneration.	Financial.	2.	Finance.
Chief Officer, Orkney Health and Care.	Legislative.	16.	Children and Young People.

## Risks by rating

Owner.	Cluster.	Risk Number.	Risk.	Risk Rating.
Corporate Director for Enterprise and Sustainable Regeneration.	Physical.	1.	Ferries.	25.
Corporate Director for Enterprise and Sustainable Regeneration.	Financial.	2.	Finance.	25.
Corporate Director for Enterprise and Sustainable Regeneration.	Economic.	6.	Economic.	25.
Interim Head of Property, IT and Facilities.	Physical.	15.	Pandemic.	25.
Head of Human Resources and Organisational Development.	Physical.	4.	Workforce.	16.
Corporate Director for Enterprise and Sustainable Regeneration.	Technological.	8.	Connectivity.	16.
Chief Officer, Orkney Health and Care.	Legislative.	16.	Children and Young People.	15.
Interim Head of Property, IT and Facilities.	Technological.	7.	Cyber Security.	12.
Chief Executive.	Reputational.	3.	Adverse Communications.	12.
Interim Head of Property, IT and Facilities.	Physical.	5.	Asset Management.	12.
Corporate Director for Education, Leisure and Housing.	Financial.	13.	Housing.	12.
Corporate Director for Education, Leisure and Housing.	Professional.	14.	Childcare Services.	12.
Corporate Director for Strategy, Performance and Business Solutions.	Partnership.	9.	Partnerships.	9.
Chief Executive and Head of Marine Services and Transportation.	Economic.	12.	EU exit.	9.
Interim Head of Property, IT and Facilities.	Legislative.	10.	Procurement.	9.
Interim Head of Property, IT and Facilities.	Legislative.	11.	Health and Safety.	9.

# Risk matrix

			IMPACT				
			1.	2.	3.	4.	5.
			Insignificant	Minor	Moderate	Major	Severe
LIKELIHOOD	5.	Almost Certain.	Medium	Medium	High	High	Extreme
	4.	Likely.	Medium	Medium	Medium	High	Extreme
	3.	Possible.	Low	Medium	Medium	High	High
	2.	Unlikely.	Low	Low	Medium	Medium	High
	1.	Rare.	Low	Low	Low	Medium	High

Risk Number.		Risk Title.				Cluster.	Owner.		
1.		Failure to secure agreement with Scottish Government on appropriate funding arrangements to deliver the Scottish Ferries Plan in relation to ferry and terminal replacement for Orkney.				Physical.	Corporate Director for Enterprise and Sustainable Regeneration.		
<b>Likelihood:</b>	5.	<b>Impact:</b>	5.	<b>RAG:</b>	Red.	<b>Current Risk Score:</b>	25.	<b>Target Risk Score:</b>	25.

Vulnerability.	Trigger.	Consequences.	Options.	Mitigating Actions.
Ferry and Terminal replacement programme currently unfunded with ageing infrastructure. Annual revenue costs are unaffordable.	Ferries reach end of service life with no solution in place. High repair costs indicate that buying new would be more cost effective. Deterioration of piers infrastructure. Reductions in lifeline provisions for the community are below Scottish Ferries Plan standards. Services become unaffordable.	Ferries reach end of life with no replacement – rapid service deterioration. Excessive support costs as aged ferries kept running. Reduced capacity and flexibility to maintain scheduled services. Excessive running costs of old ferries. No opportunities to achieve expected service levels. Risk of delay in procurement leading to reduced capability to purchase fit for purpose new tonnage. Buying piecemeal also reduces economy of scale; community unrest due to people depopulating the isles due to lack of lifeline transport connectivity.	Treat.	Ongoing dialogue with the Scottish Government emphasising the difficulties of a small authority providing the range of public services within reduced budgets across a wide and diverse geographical area. Working with COSLA and Transport Scotland has seen the rationalisation of local authority ferry funding with Ferries GAE moved within the finance settlement to be a specific grant in 2022 / 23. Between fare income and the specific grant, the revenue costs should be fully funded in 2022 / 23. Continue to seek additional specific funding sources to protect lifeline services in Orkney and its outlying communities to ensure they are not significantly disaffected, e.g. Transport Grant for replacement ferries.

Risk Number.		Risk Title.				Cluster.		Owner.	
2.		Council services – inability to maintain services and meet changing demands.				Financial.		Corporate Director for Enterprise and Sustainable Regeneration.	
Likelihood:	5.	Impact:	5.	RAG:	Red.	Current Risk Score:	25.	Target Risk Score:	16.

Vulnerability.	Trigger.	Consequences.	Options.	Mitigating Actions.
<p>Local Government services have sustained a period of reduced funding and prior to COVID-19, there was a significant concern that resources would be insufficient to meet future need. COVID-19 has increased the cost of essential service delivery in some areas which may persist for an indeterminate period.</p> <p>Income streams that seemed secure have completely stopped and may take a long time to recover.</p> <p>A lack of capacity in Council staffing to deliver the capital programme.</p> <p>A lack of capacity in local contractors to deliver Council projects and difficulty in attracting competition for smaller projects.</p>	<p>Expectations outstrip capacity to deliver.</p> <p>Community expectations are not reduced due to a failure to communicate and engage effectively with communities.</p> <p>Failure to demonstrate the value of the Council's ongoing services to the public.</p> <p>The Scottish Government fails to provide sufficient funding for essential services.</p>	<p>Community unrest.</p> <p>Unhappy service users.</p> <p>Elected members unable to meet need.</p> <p>Loss of credibility of Council.</p> <p>Inability to deliver the range of services expected and legal challenge.</p> <p>Capital projects are delivered late or not at all leading to increased costs and difficulties in delivering services.</p>	<p>Treat.</p>	<p>Ownership of the Budget Setting Process by the Senior Management Team / Corporate Management Team with openness and transparency around the identification of potential areas for re-provisioning of services.</p> <p>An agreed programme of budget savings and efficiencies.</p> <p>Delivery of budget savings will be monitored within Services and reported to the Policy and Resources Committee.</p> <p>There must be an acknowledgement of reality with the focus on continuation of the delivery of minimum Statutory Provision versus Statutory with Discretion, Non-Statutory but Essential or Discretionary Expenditure whilst having regard to the Council Priorities.</p> <p>Improved project planning with much longer lead in times.</p> <p>Additional staff capacity in Development and Infrastructure to manage the capital programme.</p>

<b>Vulnerability.</b>	<b>Trigger.</b>	<b>Consequences.</b>	<b>Options.</b>	<b>Mitigating Actions.</b>
Capital funding is insufficient to replace ageing assets or provide new assets required for new priorities.				

<b>Risk Number.</b>	<b>Risk Title.</b>	<b>Cluster.</b>	<b>Owner.</b>						
3.	Adverse reaction to communications with staff, the public and stakeholders including social media.	Reputational.	Chief Executive.						
<b>Likelihood:</b>	4.	<b>Impact:</b>	3.	<b>RAG:</b>	Amber	<b>Current Risk Score:</b>	12.	<b>Target Risk Score:</b>	9.

<b>Vulnerability.</b>	<b>Trigger.</b>	<b>Consequences.</b>	<b>Options.</b>	<b>Mitigating Actions.</b>
The Council's resources made available by Government will continue to reduce or remain static over the next few years despite growing need and demand. The Council must therefore use its general fund and strategic reserve fund resources to maintain services whilst areas for savings / efficiencies and income generation are progressed. The Council must ensure that communities continue to be appropriately engaged about the management restructure, efficiency measures and	Customers have unrealistic expectations of what Council services can deliver. Customers do not understand the reasons for the changes and blame the Council. Good ideas are not harvested from effective community consultation. Failure to demonstrate the value of the Council's on-going services to the public. Council is unable to demonstrate the ability to work corporately. Staff are not given the opportunity to engage with and contribute to Our People	Reputational risk. Misplaced criticism. Good ideas lost. Confusion about what the Council's priorities are. More difficult to align resources to priorities. Lack of understanding of what the Council wants to achieve. Changes are not achieved. Staff morale is adversely affected. Customers may not get a joined-up service.	Treat.	Communication and Engagement Plan for Our People or Plan (OPOP) in development. As part of OPOP a workstream on Internal Communication is in place. In addition, work has commenced on the next review of the communication and engagement strategies and plans that are in place to publicise the Council's objectives and priorities, existing services and service change to ensure communities are engaged. The last review included the increased use of social media as a platform and tool for community engagement. Proactive press releases and campaigns are being prepared and released to promote positive stories about the services provided by the Council.

<b>Vulnerability.</b>	<b>Trigger.</b>	<b>Consequences.</b>	<b>Options.</b>	<b>Mitigating Actions.</b>
<p>inevitable service changes, and are proactively informed so that customer expectations are realistic.</p> <p>There is the potential that staff do not feel engaged in Our People Our Plan priorities and the inevitable change processes or valued as active contributors to corporate change, service realignments or developments.</p> <p>The Council fails to manage how we respond to social media and to take advantage of the potential benefits of social media.</p>	<p>Our Plan and the subsequent corporate development; staff become disengaged in essential change processes.</p> <p>The Council does not maintain an effective presence on social media as a communication tool.</p>	<p>Inter-service tensions undermine corporate achievements.</p> <p>Legal implications.</p> <p>Exclusion of sectors of the community.</p>		

<b>Risk Number.</b>	<b>Risk Title.</b>	<b>Cluster.</b>	<b>Owner.</b>						
4.	Workforce planning – lack of skills, experience and capacity.	Physical.	Head of Human Resources and Organisational Development.						
<b>Likelihood:</b>	4.	<b>Impact:</b>	4.	<b>RAG:</b>	Amber.	<b>Current Risk Score:</b>	16.	<b>Target Risk Score:</b>	6.

<b>Vulnerability.</b>	<b>Trigger.</b>	<b>Consequences.</b>	<b>Options.</b>	<b>Mitigating Actions.</b>
<p>Insufficient workforce planning actions underway to shape future workforce through redeployment,</p>	<p>Council staff become overstretched.</p> <p>Council staff become demoralised.</p>	<p>Council cannot manage within its resources.</p> <p>Existing workforce becomes overstretched.</p>	Treat.	<p>Review of staffing model seeking to increase staffing resource where possible in pressure areas.</p> <p>Projects within Our People, Our Plan initiative targeting improvements across</p>

<b>Vulnerability.</b>	<b>Trigger.</b>	<b>Consequences.</b>	<b>Options.</b>	<b>Mitigating Actions.</b>
<p>succession planning, recruitment, training etc. Capacity issues make it difficult for the service to realise its priorities.</p>	<p>The Council does not have the right staff, in the right place, at the right time, to deliver set priorities and / or statutory functions.</p> <p>The Council is unable to meet its statutory obligations.</p> <p>Statutory officers are unable to discharge their statutory functions adequately.</p>	<p>Key pieces of work are not able to be undertaken.</p> <p>Service standards drop and vulnerable people are placed at risk.</p> <p>Council is reactive rather than proactive.</p> <p>An increased risk in legal challenges and complaints.</p> <p>Risk of financial penalties.</p>		<p>operating model, workforce planning, culture, performance.</p> <p>New corporate People Plan being developed to identify and address strategic workforce challenges.</p> <p>More proactive approach to recruitment, succession planning and attraction of people to live and work in Orkney.</p> <p>Adoption of Investors in People in 2022.</p> <p>Development of programmes around youth employment, attracting young people into the workforce and improving career pathways.</p> <p>Continued use and development of remote and flexible working will encourage improved working methods and retention of key staff.</p> <p>Inclusion of staff in re-design of operations.</p> <p>Increased commitment to proactive communications particularly related to staff and trade unions.</p> <p>Regular monthly Trade Union meeting at Corporate level.</p> <p>Regular staff / Trade Union meetings at Service level, when required.</p> <p>Change in emphasis of staff engagement to include the process of change.</p>



<b>Risk Number.</b>	<b>Risk Title.</b>				<b>Cluster.</b>	<b>Owner.</b>			
5.	Failure to ensure we obtain and retain maximum benefit from Council's assets.				Physical.	Corporate Director for Neighbourhood Services and Infrastructure.			
<b>Likelihood:</b>	4.	<b>Impact:</b>	3.	<b>RAG:</b>	Amber	<b>Current Risk Score:</b>	12.	<b>Target Risk Score:</b>	10.

<b>Vulnerability.</b>	<b>Trigger.</b>	<b>Consequences.</b>	<b>Options.</b>	<b>Mitigating Actions.</b>
<p>The Council may not have enough funds to sustain assets, replace ageing assets and develop key assets (also see Risk 1 which is particularly significant). Essential buildings and infrastructure for travel, communications etc must be maintained to ensure property and roads, IT, telecoms and other infrastructure continue to be able to support the Council's services.</p>	<p>The Council cannot maintain or develop its essential assets to provide public services.</p> <p>The Council cannot implement an asset management strategy.</p> <p>The public is unable to communicate with services.</p> <p>Professionals are unable to communicate with each other to provide effective services.</p>	<p>Roads and buildings deteriorate.</p> <p>IT infrastructure cannot support services.</p> <p>Unused / surplus buildings.</p> <p>Services are not delivered.</p> <p>Lifeline routes compromised.</p> <p>Risk of accident and potential claim.</p> <p>Vulnerable people are at risk.</p> <p>Communication is not possible between agencies to co-ordinate services.</p> <p>Council's reputation is at risk.</p>	<p>Treat.</p>	<p>Corporate Asset Management Plan updated in 2019 and covers the period 2019 to 2023.</p> <p>Existing Property Asset Management Plan is kept up to date and reviewed regularly. The 2019 to 2023 plan was re-written and considered by the Asset Management Sub-committee in November 2019.</p> <p>Existing ICT Asset Management Plan was updated in 2021 and approved by Asset Management Sub-Committee.</p> <p>The Fleet and Plant Asset replacement programme is under review and will be updated in 2022.</p> <p>The capital programme 2018 to 2023 is fully committed. Work is underway to agree the 2024 to 2029 programme in the current financial year, noting that funding pressure will not necessarily see any significant investment in maintaining assets above current levels or address any backlog issues. It should be further noted that the impacts of the Covid-19 Pandemic and Brexit have increased costs and added significant delays to some programmes, including extreme supply chain delays being experienced by our contractors.</p>

Vulnerability.	Trigger.	Consequences.	Options.	Mitigating Actions.
				<p>Service Asset Management Plans has commenced on Open Spaces and thereafter Heritage. They have been completed for Roads in terms of the Roads Asset Replacement Programme 2022-2025 and the Roads Maintenance Programme 2022-2023.</p> <p>All asset replacement programmes (budgets) for roads, waste, fleet and property (revenue repairs and capital improvements), are monitored in detail to ensure planned, cyclical, reactive and emergency works are completed in context of significant budget pressures (efficiencies).</p> <p>The Council agreed to draw £2.1 million from reserves to address a backlog of roads maintenance when it set the budget for 2021 / 22. This additional funding is being fed into maintenance budgets over two financial years.</p> <p>The Council agreed in December 2021 to a number of areas where additional one-off funding of £3.9 million on maintenance repair and replacement should be expended.</p> <p>Capital Planning and Asset Management Working Group holds monthly meetings to consider prioritisation of future works.</p>

<b>Risk Number.</b>	<b>Risk Title.</b>					<b>Cluster.</b>		<b>Owner.</b>	
6.	Inability to sustain and enhance economic opportunities.					Economic.		Corporate Director for Enterprise and Sustainable Regeneration.	
<b>Likelihood:</b>	5.	<b>Impact:</b>	5.	<b>RAG:</b>	Red.	<b>Current Risk Score:</b>	25.	<b>Target Risk Score:</b>	20.

<b>Vulnerability.</b>	<b>Trigger.</b>	<b>Consequences.</b>	<b>Options.</b>	<b>Mitigating Actions.</b>
<p>Commercial sectors are vulnerable to market forces and changing national and international economic circumstances. Orkney's population is also ageing, leading to a range of challenges and opportunities in managing the impact of this demographic shift in terms of service provision.</p> <p>Deliverability of key project and political agendas including the Islands Deal, Harbours Masterplan, Grid and Digital Connectivity, Shared Prosperity Fund, Ferry Replacement, Arctic Strategy and Innovation Freeport concepts.</p> <p>COVID 19 Recovery and Response challenges.</p>	<p>The Council fails to support a diverse economy.</p> <p>Decline in farming and other traditional industries.</p> <p>External market forces and economic factors lead to increasing pressure on local businesses.</p> <p>Cost of transportation threatens travel of goods and people to and from Orkney.</p> <p>The Council fails to support emerging industries.</p> <p>The Council fails to ensure community benefits arise from developing industries.</p> <p>The Council fails to secure long term benefits from Renewables sector.</p> <p>Increasing pressure on services for older people.</p> <p>Reducing work age Government fail to deliver on or support economic opportunities and Regulatory change and an appropriately</p>	<p>Local economy struggles pushing additional responsibilities onto the public sector.</p> <p>Council budgets become increasingly pressed.</p> <p>Staffing shortages.</p> <p>Loss of external funding due to Brexit.</p> <p>Loss of jobs, increase in unemployment, reduced economic performance.</p>	Treat.	<p>The budgets for revenue repairs and capital improvements are reviewed annually as part of the Council's budget process.</p> <p>Seek to identify additional options for delivery of the maintenance programmes.</p> <p>Where unavoidable pressures are identified these are managed through an allocated 'contingency' or capacity within the Development and Infrastructure Directorate given positive trading performance.</p> <p>To ensure the delivery of approved plans is achieved, there has been additional investment in people resources in roads, waste, fleet and soon to be the quarry and property team (as part of workload analysis and mini restructuring).</p> <p>To ensure the size and scale of the capital programme is realistic in terms of affordability, pace and thereby resources, members have agreed the 2018 to 2023 programme. This considers the Council's internal and external people resource, contractor capacity and how funded (internally or externally, noting island deal possibilities).</p>

<b>Vulnerability.</b>	<b>Trigger.</b>	<b>Consequences.</b>	<b>Options.</b>	<b>Mitigating Actions.</b>
	<p>designed and timed Shared Prosperity Fund.</p> <p>Lack of capacity to deliver sufficient support to post COVID-19 economy.</p> <p>Lack of Government support for unique islands impacts of COVID-19 e.g. tourism 3 winters scenario, population.</p>			<p>Political engagement and lobbying at UK and Scottish Government levels.</p> <p>Effective working of Economic Recovery Steering Group.</p>

<b>Risk Number.</b>	<b>Risk Title.</b>	<b>Cluster.</b>	<b>Owner.</b>						
7.	Inadequate information security and management, and inadequate cyber security – With the increase in the use of publicly visible technology, there is an increased risk of exposure to threats from criminal and other malicious parties.	Technological.	Corporate Director for Neighbourhood Services and Infrastructure.						
<b>Likelihood:</b>	3.	<b>Impact:</b>	4.	<b>RAG:</b>	Amber.	<b>Current Risk Score:</b>	12.	<b>Target Risk Score:</b>	6.

<b>Vulnerability.</b>	<b>Trigger.</b>	<b>Consequences.</b>	<b>Options.</b>	<b>Mitigating Actions.</b>
<p>The Council fails to maintain an adequate audit trail of all information created.</p> <p>The Council does not handle, share and release all its data adequately.</p> <p>The Data Protection Act 2018 has introduced new duties for the Council.</p>	<p>Inappropriate disclosure, sharing, retention or loss of data.</p> <p>Failure to comply with information governance legislation including the Data Protection Act 2018.</p>	<p>Customer distress and harm.</p> <p>Financial and legal implications.</p> <p>Reputational risk.</p> <p>Inability to access information when required.</p> <p>Failure to deliver services.</p>	Treat.	<p>The Records Management Improvement Plan sets out further actions required to ensure that the Council maintains compliance with its legal responsibilities, including the Data Protection Act 2018.</p> <p>Senior Management leadership in place regarding delivery of the Records Management Improvement Plan.</p> <p>The Council met the Cyber Essential (Basic) accreditation as required by the Scottish Government in February 2018; the target for this was June 2018.</p>

Vulnerability.	Trigger.	Consequences.	Options.	Mitigating Actions.
<p>Failure to implement and maintain suitable cyber controls to protect assets.</p>		<p>Failure to share information leading to duplication of effort.</p> <p>Not responding to information requests on time.</p> <p>Complaints against the Council.</p>		<p>Cyber Essential + accreditation achieved, April 2019. Noted that the Information Services Programme Board decided, in June 2019, not to seek re-accreditation of CE+ for 2020 on the basis that all the same criteria, and more, was tested as part of the Public Services Network (PSN) compliance activity.</p> <p>PSN reaccreditation was validated from 1 May 2021 to 1 May 2022 and work is underway to achieve re-accreditation.</p> <p>IT Security is managed proactively and there is an ongoing programme of patching / updating the hardware and software in operation across the Council.</p> <p>As part of the Council's resilience planning, it has completed an exercise in a box, designed by the National Cyber Security Centre and adapted by officers, focused on a Cybersecurity Ransomware attack with attendance from all Council services and reported to Senior Management Team.</p> <p>Ongoing work on business continuity actions, aligned to Cyber Scotland incident response planning, following this is now in progress.</p> <p>The Council has invested in a new dual site hyperconverged infrastructure to host its on-premises production services and data with work now progressing to deploy the secondary unit to a disaster recovery location.</p> <p>There has been an extensive programme of replacement to upgrade the council</p>

<b>Vulnerability.</b>	<b>Trigger.</b>	<b>Consequences.</b>	<b>Options.</b>	<b>Mitigating Actions.</b>
				desktop PCs to Windows 10 which has been completed. Any devices which are not compliant are restricted from network access.

<b>Risk Number.</b>	<b>Risk Title.</b>				<b>Cluster.</b>	<b>Owner.</b>			
8.	Inadequate access to superfast Broadband across Orkney and mobile connectivity.				Technological.	Corporate Director for Enterprise and Sustainable Regeneration.			
<b>Likelihood:</b>	4.	<b>Impact:</b>	4.	<b>RAG:</b>	Amber.	<b>Current Risk Score:</b>	16.	<b>Target Risk Score:</b>	8.

<b>Vulnerability.</b>	<b>Trigger.</b>	<b>Consequences.</b>	<b>Options.</b>	<b>Mitigating Actions.</b>
<p>Failure to lobby Governments to address the current digital divide and put in place infrastructure to ensure a step change in speeds.</p> <p>Failure to access mobile coverage.</p> <p>Failure to press the Government to deliver a longer-term plan to ensure that there are the right mechanisms, partnerships and commercial models in place.</p>	<p>Orkney fails to secure maximum and equitable geographic coverage of superfast Broadband, wireless connectivity and significant improvements to Broadband services and mobile network across the islands.</p> <p>Orkney is unable to attract inward investment and sustain fragile communities.</p> <p>Educational infrastructure disadvantaged by lack of service.</p>	<p>Failure to attract inward investment.</p> <p>Failure to attract skilled employees.</p> <p>Digital isolation across age groups.</p> <p>Failure to realise opportunities in respect of Telehealth, Telecare, mobile working and tele-learning.</p> <p>Poor online public service access including welfare benefits, etc.</p>	Treat.	<p>Continue to support political lobbying and seek opportunities to progress policy.</p> <p>Support the Scottish Government in the roll out of R100 infrastructure in Orkney.</p> <p>Support development and introduction of alternative commercial models, including 5G infrastructure.</p> <p>The Council has agreed to commission a study to explore community options for accelerating superfast solutions should Government schemes fail to deliver for Orkney.</p> <p>A contract has been awarded for the development of a digital strategy for Orkney.</p>

<b>Risk Number.</b>	<b>Risk Title.</b>				<b>Cluster.</b>	<b>Owner.</b>			
9.	Lack of development of effective partnerships.				Partnership.	Corporate Director for Strategy, Performance and Business Solutions.			
<b>Likelihood:</b>	3.	<b>Impact:</b>	3.	<b>RAG:</b>	Yellow.	<b>Current Risk Score:</b>	9.	<b>Target Risk Score:</b>	6.

<b>Vulnerability.</b>	<b>Trigger.</b>	<b>Consequences.</b>	<b>Options.</b>	<b>Mitigating Actions.</b>
<p>The Council must develop partnership working to maximise use of the culminative resource and impact on outcomes for the community Planning Partnership.</p> <p>Working in partnership exposes the Council to some degree of reputational risk, depending on the stability of the arrangements and outcomes delivered.</p> <p>Resource and key staffing constraints may affect the success of partnerships.</p> <p>The Scottish Government has not progressed the Local Governance Review pilot of the Single Authority Model.</p> <p>The Scottish Government's intention to create a National Care Service and to amend the functions of Integration Joint Boards could see social care in</p>	<p>The Council does not implement a robust and effective framework for managing its key partnerships.</p> <p>The resource and key staffing pressures on the parent bodies affect the reputation of the partnership.</p> <p>National developments relating to the redesign of adult care services may not take account of the unique requirements of delivering effective care services in remote and rural areas.</p>	<p>Impact upon service delivery.</p> <p>Loss of reputation due to inability to meet statutory requirements.</p> <p>Efficiencies not achieved.</p> <p>Reduced ability to deliver on important projects for vulnerable people and their families.</p> <p>Reduced ability to support and protect individuals and families by delivering effective care services within Orkney.</p>	<p>Treat.</p>	<p>The Council will continue to work closely with partners under current frameworks which are monitored closely to ensure they are robust, effective and deliver good governance.</p> <p>The Council will continue to review existing partnerships and explore new ones as opportunities arise to suit Orkney as a whole.</p> <p>Engagement with Scottish Ministers in respect of the Local Governance review which supports joint working will be sought.</p> <p>Engage with the Scottish Government through COSLA. As a separate legal entity, the IJB will consider its own actions relating to this risk on the IJB's risk register.</p>

<b>Vulnerability.</b>	<b>Trigger.</b>	<b>Consequences.</b>	<b>Options.</b>	<b>Mitigating Actions.</b>
Orkney delivered in a different way.				

<b>Risk Number.</b>	<b>Risk Title.</b>	<b>Cluster.</b>	<b>Owner.</b>						
10.	Inadequate procurement compliance and sustainable communities.	Legislative.	Corporate Director for Neighbourhood Services and Infrastructure.						
<b>Likelihood:</b>	3.	<b>Impact:</b>	2.	<b>RAG:</b>	Yellow.	<b>Current Risk Score:</b>	6.	<b>Target Risk Score:</b>	6.

<b>Vulnerability.</b>	<b>Trigger.</b>	<b>Consequences.</b>	<b>Options.</b>	<b>Mitigating Actions.</b>
<p>Financial and non-financial savings have not yet been fully explored.</p> <p>Further work to be done to support local businesses to help them participate in procurement opportunities, building on the Meet the Buyer event which was first held in August 2016.</p>	<p>Legal challenge is a possibility unless the Procurement Regulations are complied with and processes followed.</p> <p>Officers fail to understand the limitations that the Procurement Regulations place on the Council.</p> <p>Officers do not follow due process and tendering must be repeated.</p> <p>Anticipated savings may not be fully realised through collaborative contracts.</p> <p>The local economy may not be as well supported as it could be.</p> <p>Member / officer disharmony due to lack of understanding of responsibilities.</p>	<p>Financial loss due to legal challenge.</p> <p>Reputational harm.</p> <p>Delays in services being procured due to re-tendering or court action.</p> <p>Loss to the local economy.</p> <p>Loss of effectiveness and efficiency.</p> <p>Lost opportunity in terms of savings.</p>	Treat.	<p>Procurement Member Officer Working Group in place and meets when required.</p> <p>Procurement Working Group (Officers) set up to provide training, support and a corporate approach to procurement exercises and priorities.</p> <p>Frequent communication with this group is in place and training on the use of PCS Tender was completed by 19 staff in January 2018.</p> <p>Procurement Improvement Plan developed and kept under review.</p> <p>Sustainable Procurement Strategy approved by Members in February 2018.</p> <p>Following external consultation in Summer 2021 a new version, including a Sustainable Procurement Impact Assessment, is ready to be considered by Council in March 2022.</p> <p>Procurement Manual updated in April 2019.</p>



Vulnerability.	Trigger.	Consequences.	Options.	Mitigating Actions.
				<p>Procurement and Commercial Improvement Programme (PCIP) assessment by Scotland Excel completed in September 2019. OIC score showed a good improvement from 49% to 58%. Action plan to meet recommendations is being implemented.</p> <p>Meet the Buyer event for October 2019 was held successfully. Event for 2020 put on hold due to the pandemic, targeted event held in 2021 and plans being discussed for 2022.</p> <p>Contracts Register is now updated at least monthly and the use of the Contracts Register is stressed to all staff who are making purchasing decisions.</p> <p>Proactive work with the Corporate Admin Group to look at the creation and use of local Framework Agreements, in the first instance this will develop a local framework for stationery.</p> <p>Contract Standing Orders under regular review, with the last formal review carried out in June 2021. A routine update is likely in Spring 2022 to reflect the updates in financial thresholds.</p> <p>COVID-19 Supplier Relief Programme implemented.</p> <p>Actions following the Internal Audit review of Quarry Procurement Procedures in March 2021 have been progressed as planned. Procurement Plan process has been implemented and all officers with Delegated Procurement Authority have</p>

<b>Vulnerability.</b>	<b>Trigger.</b>	<b>Consequences.</b>	<b>Options.</b>	<b>Mitigating Actions.</b>
				attended a workshop, as have a number of other key OIC staff.

<b>Risk Number.</b>	<b>Risk Title.</b>	<b>Cluster.</b>	<b>Owner.</b>						
11.	Health and Safety non-conformance.	Legislative.	Corporate Director for Neighbourhood Services and Infrastructure.						
<b>Likelihood:</b>	3.	<b>Impact:</b>	2.	<b>RAG:</b>	Yellow.	<b>Current Risk Score:</b>	6.	<b>Target Risk Score:</b>	4.

<b>Vulnerability.</b>	<b>Trigger.</b>	<b>Consequences.</b>	<b>Options.</b>	<b>Mitigating Actions.</b>
Non-compliance with health and safety policies, rules and procedures by employees, members of the public, contractors etc.	Reportable accidents, work related ill health and dangerous occurrences.	Staff exposed to unnecessary risk or harm. Increase in staff absence or sickness. Reduction in staff morale. Enforcement action from the Health and Safety Executive. This may include Improvement and prohibition notices and prosecution. Material breaches, if identified, are subject to cost recovery by way of 'fees for intervention'. Civil action resulting in the payment of compensation for injury or damage etc.	Treat.	Frequency of Safety Committee meetings increased including a review of adverse events. Senior Management Team to promote a positive health and safety culture. Revamp of Health and Safety Policy and supporting guidance. Proactive health and safety to feature as a standing item in Senior Management Team and Corporate Management Team meetings. IOSH 'Leading Safely' training has been refreshed for all Corporate Management Team and Senior Management Team members. Proactive Health and Safety campaigns organised and promoted to all Council employees started in April 2018. Review and potential investment of additional service-focused resources to strengthen operational health and safety

<b>Vulnerability.</b>	<b>Trigger.</b>	<b>Consequences.</b>	<b>Options.</b>	<b>Mitigating Actions.</b>
				effectiveness (one post in Development and Infrastructure Service potentially).

<b>Risk Number.</b>	<b>Risk Title.</b>	<b>Cluster.</b>	<b>Owner.</b>						
12.	Continued impact of EU exit.	Economic.	Chief Executive and Head of Marine Services and Transportation.						
<b>Likelihood:</b>	3.	<b>Impact:</b>	3.	<b>RAG:</b>	Yellow.	<b>Current Risk Score:</b>	9.	<b>Target Risk Score:</b>	9.

<b>Vulnerability.</b>	<b>Trigger.</b>	<b>Consequences.</b>	<b>Options.</b>	<b>Mitigating Actions.</b>
<p>Loss of access to the single market, with associated implications around trade delays and reduction in supply.</p> <p>Loss of EU funding for projects and businesses in Orkney.</p> <p>Disruption to current workforce and future restrictions on ability to recruit.</p>	<p>Restrictions to the supply chain.</p> <p>Restrictions on the free movement of people and workers' rights within the EU area.</p>	<p>Insufficient supply of essential commodities (food, medical supplies, fuel).</p> <p>Negative impact on projects and businesses in Orkney should funding streams end and not be replaced.</p> <p>Difficulty in retaining staff and attracting new staff from the EU to work for the Council, possibly leading to service delivery difficulties due to staff shortages, as well increased pressure on other staff.</p> <p>Requirement for Export Health Certificates (issued by Environmental Health</p>	Treat.	<p>The Council 'Island proofed' any Scottish Government response and fully participates in discussions with CoSLA, the Scottish Government and other groups as needed.</p> <p>Ongoing discussions within the Community Planning Partnership once the terms of Brexit are known.</p> <p>Initially, urgent escalation of high / severe risks to the Scottish Government, including the operational difficulties with regard to Export Health Certificates.</p> <p>Working with CoSLA to develop and deliver key communications and guidance for existing staff from EU countries.</p> <p>Initial concerns relating to the impact on the Council to recruit from EU countries has not manifested itself in a downturn in our ability to recruit for positions within the Council. Whilst we did see some employees leave in the early stages of Brexit discussions, the EU settlement</p>

<b>Vulnerability.</b>	<b>Trigger.</b>	<b>Consequences.</b>	<b>Options.</b>	<b>Mitigating Actions.</b>
		service) for all aquaculture and shellfish exports.		<p>scheme has ensured we have been able to retain staff who meet that criteria.</p> <p>The framework for response met initially to determine the Council's response to emerging issues, however as much of the issues have come within existing business, these meetings have ceased. Internally, the No Deal EU Exit action plan is actively managed and reviewed regularly.</p> <p>Initial concerns relating to the impact to the Council on leaving the EU have not been as severe as initially thought. The fears surrounding the demand for Export Health Certification has not reached the reasonable worst-case scenarios and is deemed manageable within the Service.</p> <p>Initial planning arrangements to deal with concurrent events have now been relaxed across the HILRP area with some return to a normal meeting structure. This follows the ability of organisations to respond to concurrent events. To date, we have responded to eight incidents in addition to the pandemic and Brexit.</p>

<b>Risk Number.</b>	<b>Risk Title.</b>				<b>Cluster.</b>	<b>Owner.</b>			
13.	House Build Programme – Risk of being unable to fully utilise Affordable Housing Supply Programme funding from the Scottish Government.				Financial.	Corporate Director for Education, Leisure and Housing.			
<b>Likelihood:</b>	4.	<b>Impact:</b>	3.	<b>RAG:</b>	Amber	<b>Current Risk Score:</b>	12.	<b>Target Risk Score:</b>	9.

Vulnerability.	Trigger.	Consequences.	Options.	Mitigating Actions.
<p>A range of factors are affecting the Council's ability to spend the Affordable Housing Supply Programme's funding, in partnership with Orkney Housing Association Ltd. These factors include:</p> <p>Contractors are currently under significant pressure with substantial amounts of work and limited resources.</p> <p>Issues affecting Scottish Water's sewerage system in Kirkwall and a need to separate surface water run off to free up capacity.</p> <p>The Housing Revenue Account holds a relatively high level of debt, and debt repayments are substantial.</p> <p>The cost of meeting the Energy Efficiency Standard for Social Housing 2 by 2032 is serving to exacerbate Housing Revenue Account challenges.</p> <p>The impact of the above on the level of affordability of rents for tenants, given that a small Housing</p>	<p>Inability to commit to fully utilising the funding that the Scottish Government allocate to Orkney each financial year.</p>	<p>Loss of funding that is essential to Orkney meeting need for social / affordable housing.</p> <p>Rising pressure as more applicants further increase pressure on the Council's growing housing waiting list.</p> <p>Difficulties in OIC meeting its statutory homelessness requirements through placing households into permanent accommodation.</p> <p>Barriers to implementing the Rapid Rehousing Transition Plan.</p> <p>Inflationary impact on other housing sectors, particularly the private rented sector.</p> <p>Negative impact on local economy if economically active households or those requiring to live and work in Orkney cannot secure affordable housing in the area.</p> <p>Young Orkney families are increasingly being priced out of the private rented sector, cannot secure a suitable mortgage and / or</p>	<p>Treat.</p>	<p>A house-build group has been established and meets regularly, drawing membership from the Council's Housing Service, Environmental, Property and IT Services, the Scottish Government, Scottish Water and Orkney Housing Association Ltd.</p> <p>Multiple actions are being progressed. These include:</p> <p>The second stage of the build project at Carness, Kirkwall is planned with 14 further properties to be developed.</p> <p>45 design and build properties are being sought.</p> <p>A further Council projects at Coplands Road, Stromness (eight properties), is scheduled for completion in February 2022.</p> <p>Discussions are ongoing with Scottish Water and the Council's engineering team regarding restrictions in Kirkwall.</p> <p>Orkney Housing Association Ltd will complete 12 houses at The Crafty in Kirkwall, and a further eight units at Kirk Park in Orphir during 2022.</p> <p>The Council is developing a CPA 2 for the infrastructure at Soullisquoy, Kirkwall.</p> <p>Off the shelf purchases are being investigated and considered (while considering the ability for the properties concerned to be brought up to the energy efficiency standards required by the Council where relevant).</p>

<b>Vulnerability.</b>	<b>Trigger.</b>	<b>Consequences.</b>	<b>Options.</b>	<b>Mitigating Actions.</b>
<p>Revenue Account suffers from limited economies of scale. Orkney generally has rents which are within the highest 6 in Scotland.</p> <p>There is a lack of resource across all partner agencies (and the construction sector) which places limitations on responsiveness to additional demands.</p> <p>Rising prices due to COVID-19 and Brexit, coupled with supply issues is resulting in increased project costs, to the extent that they can prove to be too expensive to take forward.</p> <p>Orkney Housing Association Limited is also limited in the number of properties that it can develop due to financial constraints of their own. This increases the pressure on the Council to build to utilise the available funding.</p>		<p>are not high enough up the priority list to secure social rented housing. The frustration this causes can increase the likelihood that some of these households leave Orkney, resulting in further inhibition to the social fabric and economy of Orkney.</p>		

Risk Number.		Risk Title.				Cluster.	Owner.		
14.		Early Learning and Childcare Expansion Plan.				Reputational.	Corporate Director for Education, Leisure and Housing.		
<b>Likelihood:</b>	4.	<b>Impact:</b>	3.	<b>RAG:</b>	Amber	<b>Current Risk Score:</b>	12.	<b>Target Risk Score:</b>	10.

Vulnerability.	Trigger.	Consequences.	Options.	Mitigating Actions.
Leadership capacity.  Insufficient number of high quality and / or qualified practitioners.  Delay in completing 1140 building works.	Failure to recruit high quality candidates.  Failure to recruit high quality candidates.  Delay in completing renovation works at Glaitness and St Andrews.	Lack of leadership in settings.  Vacant posts and repeated recruitment. Impact on quality and outcomes for children. Poor inspection grades. Failure to meet National Standard.  Inability to meet statutory requirement to deliver 1140 to eligible children. Lack of places for children in Kirkwall settings, and requirement to fund / transport children from Kirkwall to country settings	Treat.	Refocus the Leadership pathway to attract practitioners with 4-5 years' experience to support the development of leadership capacity in workforce.  Requirement for supporting practitioners to gain BA in Childhood Practice. Implementation of head teacher training to support development of pedagogical leadership capacity. Work with the college and Scottish Government ELC Improvement team to overcome the issues with recruitment for newly trained HNC practitioners Explore possibility of running SVQ from central team.  Monitor contingency plans for St Andrews and Glaitness.

<b>Vulnerability.</b>	<b>Trigger.</b>	<b>Consequences.</b>	<b>Options.</b>	<b>Mitigating Actions.</b>
<p>Insufficient budget to meet emerging demands of Scottish Government in relation to expansion, including impact of high tenders for infrastructure works.</p> <p>Provision of 0-3 service that cannot break even.</p>	<p>Infrastructure project tenders returned over budget New legislation/policy insufficiently funded for the local context (e.g. discretionary deferrals, nursery milk and snack).</p> <p>Inability to appoint adequate numbers of practitioners Greater than acceptable losses.</p>	<p>Budget overspend.</p> <p>Staff losses in settings in mainland Orkney due to lack of childcare. Budget overspend.</p>		<p>Lobby Scottish Government so that they take account of the unique island challenges relating to new policies.</p> <p>Ensure Orkney attendance at national meetings / forums to ensure the remote and rural voice is heard.</p> <p>Ensure elected members are well briefed prior to national meetings.</p> <p>Carefully monitor occupancy, staff ratios and fee payment to ensure the setting is running as efficiently as possible.</p>

<b>Risk Number.</b>	<b>Risk Title.</b>	<b>Cluster.</b>	<b>Owner.</b>						
15.	Pandemic.	Pandemic.	Corporate Director for Neighbourhood Services and Infrastructure.						
<b>Likelihood:</b>	5.	<b>Impact:</b>	5.	<b>RAG:</b>	Red.	<b>Current Risk Score:</b>	25.	<b>Target Risk Score:</b>	20.

<b>Vulnerability.</b>	<b>Trigger.</b>	<b>Consequences.</b>	<b>Options.</b>	<b>Mitigating Actions.</b>
<p>The spread of a pandemic virus is likely to significantly hamper the ability of the Council to perform its statutory functions.</p>	<p>World Health Organisation declaration of a global pandemic. The declaration of a Major Emergency has led to the appointment of an Emergency Controller and the introduction of Emergency Governance Arrangements, approved by Council on 23 March 2020</p>	<p>Service Delivery: Failure to carry out statutory duties - demand outstrips capacity. Cessation of non-urgent and elective work. Unable to provide certain services. Delays to capital programmes.</p>	Treat.	<p>Ongoing monitoring of workforce to give early indication of potential issues. Business Continuity Plans were invoked. As the pandemic has progressed, the initial reliance on Service Operational Recovery Teams has subsided. Redeployment to move staff from non-critical areas to more front-line roles. Amended operational procedures to reflect physical distancing and enhanced hygiene requirements to control/minimise spread of</p>



Vulnerability.	Trigger.	Consequences.	Options.	Mitigating Actions.
	<p>which included temporary amendments to the Council's Standing Orders.</p>	<p>Ability to successfully resolve emergency incidents.</p> <p>Ability to respond to concurrent events including Brexit or those contained within the Community Risk Register.</p> <p>Deterioration in staff experience adversely affecting team performance.</p> <p>Financial management and budgetary impact: Incurring additional unbudgeted COVID-19 spend.</p> <p>Increased costs, reduced income, impact on capital projects etc.</p> <p>Appropriate governance.</p> <p>Ability to pay staff.</p> <p>Legacy financial impact.</p> <p>Impact on Strategic Reserve Fund.</p> <p>Health and Safety: Failure to provide appropriate PPE.</p> <p>Ability to carry out statutory duties and support frontline response.</p>		<p>the virus within ongoing operational activities.</p> <p>Consideration of issues within Strategic, Tactical and Operational environments.</p> <p>Creation of RENEW framework.</p> <p>Enhanced risk assessments in relation to COVID-19.</p> <p>Regular staff updates online and directly from Chief Executive.</p> <p>Positive staff leadership.</p> <p>Provision of online support packages through HR.</p> <p>Continuation of Duty Tactical Lead through emergency.</p> <p>Specific Finance code organised to record all spending relating to COVID-19.</p> <p>Central tracker evolving to capture COVID-19 costs, develop forecasts (revenue, capital, cash flow, procurement), management of stock, policy changes and Scottish Government reporting.</p> <p>Finance embedded in Strategic Incident Management Team.</p> <p>Communication with Scottish Government ongoing regarding forecast additional costs and corresponding additional funding required to deliver services to the standard required.</p> <p>Home working solutions in place for staff where required.</p> <p>Dialogue with Banks regarding processes.</p> <p>Some internal audit capacity maintained.</p>

Vulnerability.	Trigger.	Consequences.	Options.	Mitigating Actions.
		<p>Exposure to virus, potential spreading and related absences.</p> <p>Potential harm to critical service users and providers.</p> <p>Demand outstrips supply for business as usual supplies.</p> <p>Demand outstrips supply for PPE.</p> <p>If the organisation does not seek to maintain and improve officer and staff wellbeing during the response to COVID-19, there is a risk of increased absences, loss of discretionary effort and overall decrease in operational capacity.</p> <p>Lack of scrutiny surrounding Council functions.</p> <p>Mandatory duties of the Council – schooling, social services.</p> <p>Permissive duties of the Council – education and economic development.</p> <p>Regulatory powers – trading standards,</p>		<p>Co-ordination of ordering of Personal Protective Equipment (PPE) through Selbro.</p> <p>Collaboration with NHS Orkney regarding PPE availability.</p> <p>Initial ordering issues overtaken with use of Scotland Excel.</p> <p>Pre planner and continual procurement of relevant supplies to support frontline response.</p> <p>Use of NHS National Services Scotland (NSS) and own routes to market.</p> <p>Critical identification of PPE need.</p> <p>Engagement with Highland and Islands Local Resilience Partnership to identify shortages and need.</p> <p>Procurement reviewing suppliers to allow fast track enabling of different routes to market.</p> <p>Guidance in respect of available support published on Council website.</p> <p>Advice provided regarding managerial and physical distancing - reduction in face-to-face meetings.</p> <p>Alternative solutions for meetings and working for home were implemented around Microsoft Teams, Microsoft OneDrive and Microsoft SharePoint with additional remote access secure VPN services used when necessary.</p> <p>Governance arrangements under review to ensure effective decision making of the Council. Council meetings held online</p>

Vulnerability.	Trigger.	Consequences.	Options.	Mitigating Actions.
		<p>environmental health and licensing.</p> <p>Joint working arrangements.</p>		<p>through Microsoft Teams and audiocast to the public. Recordings of these are published on the Council website together with the associated minutes.</p> <p>Confidential meetings held with Senior Management Team and Elected members on a frequent basis to discuss COVID-19 matters.</p> <p>The Strategic Incident Management Team meets regularly to enable swift determination of strategic matters.</p> <p>The Incident Management Team meets fortnightly to manage operational and tactical issues.</p> <p>Senior Management Team and Corporate Management Team continue to meet to address ongoing Council business.</p> <p>The response and recovery arrangements are regularly reviewed to ensure the declaration of a major emergency still remains relevant.</p> <p>Emergency response working strategy and structural arrangements are regularly reviewed.</p> <p>Debriefs arranged to capture initial identified points from initial response to the pandemic.</p> <p>Suitable arrangements for asymptomatic testing across Orkney established.</p>

Risk Number.		Risk Title.			Cluster.		Owner.		
16.		Inability to deliver core protection and support services for children and young people.			Legislative.		Chief Officer, OHAC.		
<b>Likelihood:</b>	3.	<b>Impact:</b>	5.	<b>RAG:</b>	Amber.	<b>Current Risk Score:</b>	15.	<b>Target Risk Score:</b>	10.

Vulnerability.	Trigger.	Consequences.	Options.	Mitigating Actions.
Children and young people are vulnerable due to the Council's need to improve policies, procedures and services as part of multi-agency child protection and support services, highlighted in the 'Report of a joint inspection of services for children and young people in need of care and protection in Orkney', February 2020.	Children and young people in need of protection and/or support do not have their needs met by the multi-agency team.	Children and young people are exposed to harm; children and young people are not provided with the best chances in early life; children and young people are not supported in closing the opportunity gap. When performance shortfalls are highlighted in inspection reports, this clearly drives improvement. However, a collateral consequence can be that it makes it more difficult to attract permanent good quality staff to work in Orkney children's and young people's social work and social care services, exacerbating vulnerabilities.	Treat.	Comprehensive multi-agency improvement plan has been developed which addresses all areas for improvement. Progress with this plan is closely monitored by the Chief Officers' Group and the relevant partner governance bodies. A follow-up inspection was undertaken by the Care Inspectorate and reported in August 2021. The findings indicate we have made significant progress and there is still considerable work to be done. Findings are mainly consistent with our own view of where we are in children's services improvement from a self-evaluation perspective which is positive. The findings have been reported to Council and IJB and the Improvement Plan had been adjusted to reprioritise key actions. A further Progress Review by the Care Inspectorate, focusing on outcomes, will commence in February 2022 and will be reported in August from which we shall evaluate our improvement position.

# Capital Project Appraisal – Stage 2

**Capital Programme: General Fund.**

**Client Service: Education.**

**Project Name: Proposed New Nursery at Orkney College.**

## 1. Background

1.1. At the Special General Meeting held on 30 June 2020, the Council considered a range of issues in relation to the provision of early learning and childcare in Orkney. The outcome was that, in order to meet the short and long term needs for early learning and childcare, the following steps be taken:

- Provide a temporary 0-5 year old and out of school care service.
- Build suitable accommodation for a new provision adjacent to Orkney College.
- Undertaking a tender exercise for a commercial operator to run a service for 0-5 year olds.
- Formally requesting financial support, including capital contributions, from partners within the Orkney Community Planning Partnership.

1.2. Against the backdrop of the ongoing challenges presented by COVID-19, work to progress the development of suitable accommodation at Orkney College has been undertaken.

## 2. Options Available

2.1. A detailed site appraisal was undertaken by Robert Potter & Partners Ltd, who have been appointed to develop design solutions for the project.

Five possible locations around Orkney College were explored. Each was considered in terms of:

- The potential challenge (in terms of ground works etc) associate with the location.
- The potential impact on current Orkney College activity.
- The potential impact on future Orkney College activity (including expanding the College building itself).
- Access (to the nursery and the College itself).

2.2. On this basis Robert Potter & Partners Ltd were asked to produce detailed plans for the preferred location, which in fact was a hybrid of two of the locations surveyed during the scoping exercise.

2.3. Alongside pursuing the project as co-located with Orkney College, other options have been considered. However, in each case so far either the site was not in Council ownership or the cost of refurbishment and/or displacement of an existing service exceeded the outline budget proposed.

2.4. The proposal solution developed by Robert Potter & Partners Ltd can be seen in Annex 1, attached.

### 3. Land Purchase Requirement

3.1. The preferred site is already owned by Orkney Islands Council, but there would be a requirement to carry out an internal transfer of the site from the Strategic Reserve Fund to the General Fund at an estimated cost of £120,000.

### 4. Project Appraisal

	Criteria	Response
1.	Protects Existing Statutory Provision	The new provision will be registered for 51 children, and this could include approximately 24 3-5 year olds. This number will allow the authority to purchase places to increase their capacity to provide the statutory provision of 1140 hours.  In August 2023 legislation for discretionary deferrals changes, children who have not reached their fifth birthday on the day schools return in August will be entitled to an additional year of funded early learning and childcare. This is expected to impact significantly on numbers and will put pressure on places, in particular, in Kirkwall.
2.	Meets Corporate Priority / Community Planning Goal	While not specifically outlined within the Community Planning Partnership's strategic framework, provision of childcare is regarded by many as part of a community's infrastructure that supports a vibrant and successful economy.
3.	Protects Existing Assets	Not applicable.
4.	Minimises Capital Cost	The project will provide a new nursery in one phase thereby minimising construction costs compared to a two-stage project.
5.	Maximises Investment from External Sources	It is proposed that an application for funding is submitted to the Islands Infrastructure Fund. The level of funding awards that may be made from this fund is not yet clear, but an illustrative award of £1.5 million has been included in the Financial Assessment of Capital Expenditure attached as Annex 2.  It is also proposed to follow up on an earlier call for funding contributions from the Community Planning

	<b>Criteria</b>	<b>Response</b>
		Partners and to seek Partnership support for the application to the Islands Infrastructure Fund.
6.	Beneficial Impact on Revenue Expenditure	The intention is to seek an external and independent partner to operate the provision. While the exact nature of the arrangements has yet to be determined, a rental charge that offsets in part or in full any loan charges incurred will be sought.
7.	Linked to Other Council Provision	
(a)	Enhances Statutory Provision	As detailed above, the new provision will future proof the available capacity of places available for 3-5 year olds in the Kirkwall area. It will also increase capacity for placing requests to be approved providing parents outwith Kirkwall access to wrap around early learning and childcare in Kirkwall.
(b)	Protects or Enhances Discretionary Provision	As detailed above, in August 2023 legislation for discretionary deferrals changes, children who have not reached their fifth birthday on the day schools return in August will be entitled to an additional year of funded early learning and childcare which is expected to impact significantly increasing numbers and put pressure on places, in particular, in Kirkwall.
8.	Re-use of Derelict Land or Building	Not applicable.
9.	Promote or Enhance Orkney's Environment	The proposed design is sensitive to its location and environs. It seeks to ensure the visual amenity is not diminished. The building itself will need to meet the required standard to help ensure the Council meets its net zero target.
10.	Promote or Enhance Orkney's Heritage	Not applicable.
11.	Economic Prosperity or Sustainable Communities	<p>The closure of the Peedie Breeks nursery (Orkney's only day care nursery) in June 2020 had a significant impact on families, businesses and public services, leaving a number of workers without any childcare.</p> <p>It is proposed that the new nursery be located within the college campus. This will enable students to access onsite childcare and will provide a training base for childcare students at the college.</p>

	Criteria	Response
		<p>The provision will also offer places for under 3s' There is a shortage of eligible two year old provision in the Papdale catchment and this setting could provide some of these. In addition, it would also be possible for Social Work to fund some baby/toddler places, to support children who might be 'on the edge of care'.</p> <p>The provision will provide jobs for a number of childcare workers at all levels, including practitioners and more senior staff.</p> <p>Lack of childcare could make it difficult to attract workers from outwith Orkney to difficult to fill essential posts.</p>
12.	Enhances Council operations or Improves Health and Safety	<p>The project will enhance the existing provision of early learning and childcare in Kirkwall, it will provide increased capacity for the statutory 3 – 5 years provision. As detailed in 7a above It will also increase capacity for placing requests to be approved providing parents outwith Kirkwall access to early learning and childcare in Kirkwall.</p> <p>The nursery will provide childcare for workers, including council employees, which is key in enabling people to return to work after having a baby.</p> <p>It will provide an essential service to the community. A newly built nursery will be fit for purpose for the 21st Century and enable recent Care Inspectorate guidance on physical environments to be put in place.</p>

## 5. Financial Implications

5.1. The full Financial Assessment of Capital and Revenue Expenditure is attached at Annexes 2 and 3.

5.2. The estimated cost of the project has increased on account of the general rapid rise in construction costs that has occurred during the pandemic, with an estimated capital cost of £2.52 million.

5.3. On 30 June 2020, the Council agreed to conduct a tender exercise for a commercial operator to run a service for 0–5-year-olds from the new facility once built. The running costs of the building would become the responsibility of the commercial operator under such an arrangement.



5.4. The average loan charges that would be payable over the 40-year borrowing period for a £2.52 million project would be £98,038 per annum on the assumption that there is no external funding contribution to the project. The Council Leader wrote to the members of the Community Planning Partnership seeking contributions towards the capital costs but, to date, no confirmed contributions have been received.

5.5. During February 2022, the Council has been advised of proposals for the allocation of the Islands Infrastructure Fund during 2022/23 as a bidding fund, for which local authorities will be able to put forward applications in a similar fashion to the Regeneration Capital Grant Fund, which has previously provided funding for the Orkney Research Campus Stage 1 and a recent award to The Pund – Trebb Community Resource Hub.

5.6. The Islands Infrastructure Fund allocation for 2022/23 will be a total of £4 million into which six local authorities will be able to submit bids (Argyll and Bute, Highland, Comhairle nan Eilean Siar, North Ayrshire, Orkney and Shetland). The draft guidance on the application process is limited but what has been shared suggests there will be no restrictions on geography or type of project that would be eligible. It is considered that the new nursery provision would be a good fit with the target outcomes and impacts for the Islands Infrastructure Fund.

5.7. The Islands Infrastructure Fund will not fund projects that have funding already agreed. It is therefore recommended that the Council approves the submission of an application to the Islands Infrastructure fund for 2023/24 and, conditional upon success of the application, approves the project for inclusion in the capital programme. An illustrative award of £1.5 million has been included in the capital appraisal, which would reduce the loans charges from £98,038 to £39,669 per annum.

5.8. It is further recommended that the support of the Community Planning Partnership is sought for the application to the Islands Infrastructure Fund together with a further call for funding support for the project.

## **6. Risk Assessment**

6.1. Risk of not proceeding:

- Child care will not be available for 0-5 years olds thereby affecting parents' choices.
- Existing facility will have to remain open to provide the child care needs.

6.2. Risk of proceeding:

- The costs of running facility exceeds budgets.
- Cost of project exceed budget.
- Planning and statutory approvals are not made timeously.
- Project creep jeopardises progress and affordability of projects.
- Limited market interest affects project value for money.
- Global Pandemic affects progress on site.

## 7. Conclusion

7.1. The proposed new provision will be registered for 51 children. This number will allow the authority to purchase places to increase their capacity to provide the statutory provision of 1140 hours as well as meet the need for child care for younger children, not yet entitled to statutory provision.

7.2. The sector is one which may yet grow and develop as there are plans to extend entitlement. While initially principally conceived as a facility which could generate an income and possibly break even, it may be that over time it is an essential part of new forms of statutory provision. Where statutory provision is extended there is an expectation that there will also be additional funding as we have seen with the 1140 hours extension.

7.3. When first proposed a possible sum of £1.5m was indicated as the potential cost for the new nursery. The figure of £2.5m represents the current understanding of how costs in the construction sector have changed. The basic principle established at the Council meeting of 30 June 2020 is that a 51-place nursery is a proportionate response to both contemporary need and to some degree, future proofing. Caution is required however as once further detail about changes to entitlement is known, it may be that a further expansion of the estate needs to be considered.

## 8. Recommendations

8.1. It is recommended that the Stage 2 Capital Project Appraisal in respect of a new Kirkwall Nursery, at a capital cost of £2,520,000, be approved as a project to be included in an application to be submitted to the Islands Infrastructure Fund for funding in 2023/24, and subject to success of the funding application, the project be included in the Capital Programme for 2022/23 onwards.

## 9. Accountable Officers

9.1. James Wylie, Corporate Director for Education, Leisure and Housing, extension 2436, Email [james.wylie@orkney.gov.uk](mailto:james.wylie@orkney.gov.uk)

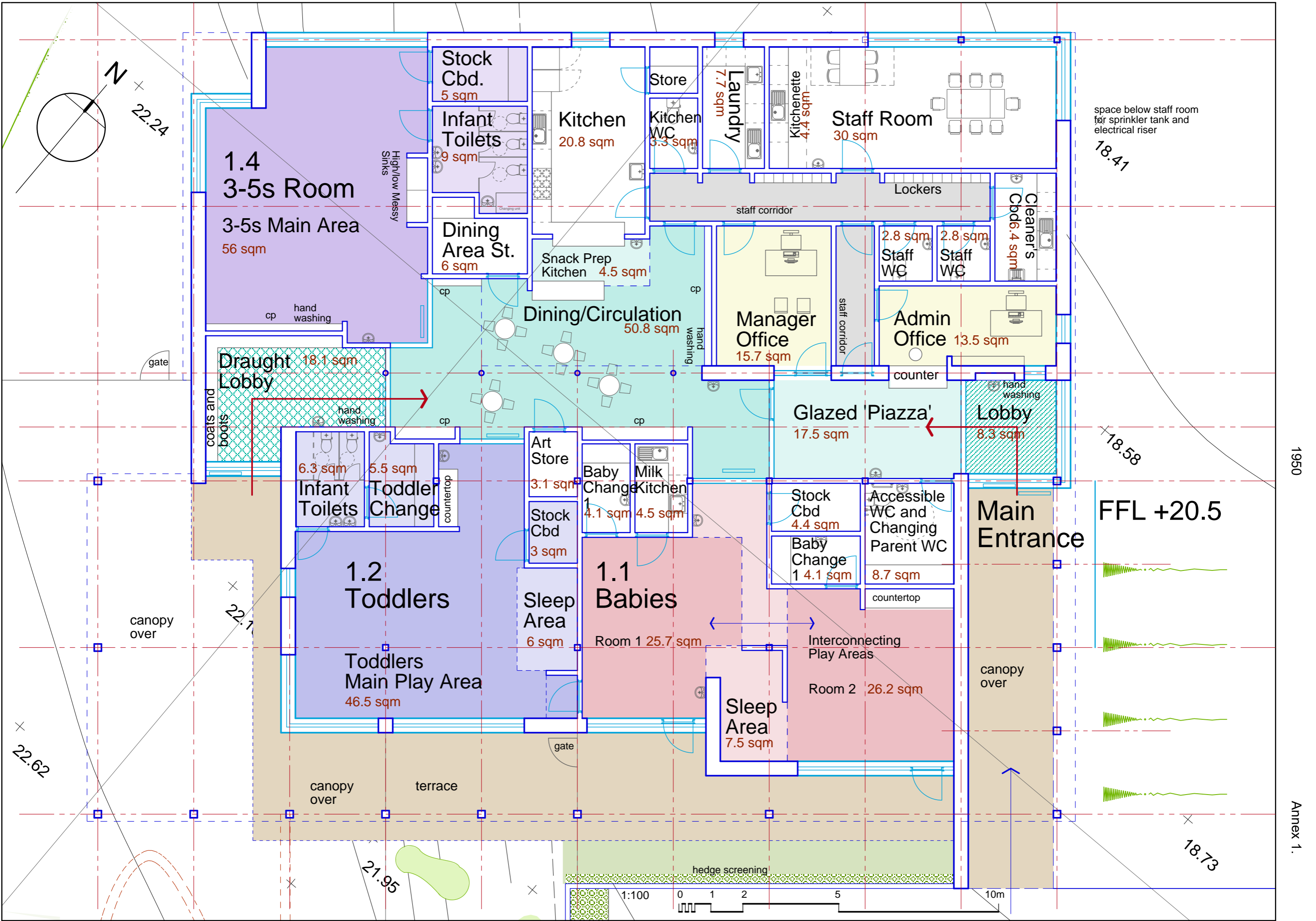
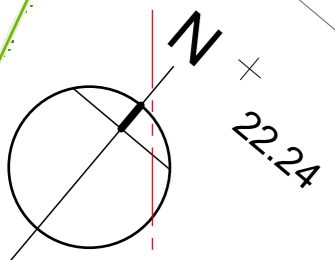
9.2. Peter Diamond, Head of Education, extension 2401, Email [peter.diamond@orkney.gov.uk](mailto:peter.diamond@orkney.gov.uk)

## 10. Annexes

10.1. Annex 1 – Proposed Solution developed by Robert Potter & Partners Ltd.

10.2. Annex 2 – Financial Assessment of Capital Expenditure.

10.3. Annex 3 – Financial Assessment of Revenue Expenditure.



space below staff room for sprinkler tank and electrical riser

18.41

18.58

FFL +20.5



18.73

1950

Annex 1.

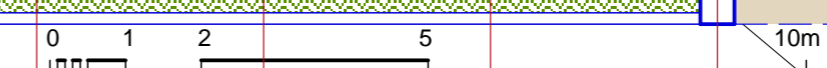
22.62

22.24

23.7

21.95

1:100



gate

canopy over

coats and boots

High/low Messy Sinks

cp hand washing

cp hand washing

cp

cp

cp

cp hand washing

cp

cp hand washing

gate

canopy over

terrace

hedge screening

canopy over

Dining Area St. 6 sqm

Kitchen 20.8 sqm

Store 3.3 sqm

Laundry 7.7 sqm

Kitchenette 4.4 sqm

Staff Room 30 sqm

1.4 3-5s Room 56 sqm

Stock Cbd. 5 sqm

Infant Toilets 9 sqm

Dining Area St. 6 sqm

Snack Prep Kitchen 4.5 sqm

Dining/Circulation 50.8 sqm

Manager Office 15.7 sqm

Admin Office 13.5 sqm

Draught Lobby 18.1 sqm

Glazed 'Piazza' 17.5 sqm

Lobby 8.3 sqm

Infant Toilets 6.3 sqm

Toddler Change 5.5 sqm

Art Store 3.1 sqm

Baby Change 4.1 sqm

Milk Kitchen 4.5 sqm

Stock Cbd 3 sqm

Stock Cbd 4.4 sqm

Baby Change 1 4.1 sqm

Accessible WC and Changing Parent WC 8.7 sqm

1.2 Toddlers

Sleep Area 6 sqm

1.1 Babies

Room 1 25.7 sqm

Sleep Area 7.5 sqm

Interconnecting Play Areas Room 2 26.2 sqm

Main Entrance

FFL +20.5



18.73

Annex 1.



STAGE 2 - CAPITAL PROJECT APPRAISAL  
FINANCIAL ASSESSMENT OF ASSOCIATED CAPITAL EXPENDITURE IMPLICATIONS

<b>Capital Programme:</b>	<b>General Fund</b>
<b>Client Service:</b>	<b>Education</b>
<b>Project Name:</b>	<b>Proposed New Nursery at Orkney College</b>

		1	2	3	4	5		
<b>CAPITAL COSTS</b>	<b>Total £ 000</b>	<b>2022/23 £ 000</b>	<b>2023/24 £ 000</b>	<b>2024/25 £ 000</b>	<b>2025/26 £ 000</b>	<b>2026/27 £ 000</b>	<b>Onwards £ 000</b>	<b>Notes</b>
<b>1. Initial Costs (at inflated prices)</b>								
Land or Property Purchase	120.0	120.0	-	-	-	-	-	
Other Site Costs (including Fees)	-	-	-	-	-	-	-	
Construction or Improvements	2,097.0	100.0	1,686.0	311.0	-	-	-	
Information Technology Costs	20.0	-	20.0	-	-	-	-	
Plant, Vehicles & Equipment	-	-	-	-	-	-	-	
Professional Fees - Consultant	95.5	34.0	50.0	11.5	-	-	-	
- In-house	187.5	35.0	125.0	27.5	-	-	-	
<b>Gross Capital Expenditure</b>	<b>2,520.0</b>	<b>289.0</b>	<b>1,881.0</b>	<b>350.0</b>	<b>-</b>	<b>-</b>	<b>-</b>	
<b>2. Initial Funding (at inflated prices)</b>								
Government Grants	1,500.0	-	1,500.0	-	-	-	-	
Other Grants	-	-	-	-	-	-	-	
Other Financial Assistance	-	-	-	-	-	-	-	
<b>Total Grants Recievable, etc.</b>	<b>1,500.0</b>	<b>-</b>	<b>1,500.0</b>	<b>-</b>	<b>-</b>	<b>-</b>	<b>-</b>	
<b>Net Capital Cost of Project</b>	<b>1,020.0</b>	<b>289.0</b>	<b>381.0</b>	<b>350.0</b>	<b>-</b>	<b>-</b>	<b>-</b>	
<b>Net Council Capital Expenditure</b>	<b>1,020.0</b>	<b>289.0</b>	<b>381.0</b>	<b>350.0</b>	<b>-</b>	<b>-</b>	<b>-</b>	
<b>Net Present Value</b>	<b>969.3</b>	<b>289.0</b>	<b>362.9</b>	<b>317.5</b>	<b>-</b>	<b>-</b>	<b>-</b>	
Cost of Capital		5%	5%	5%	5%	5%	5%	
Year		0	1	2	3	4	5	

**Notes** - Additional narrative on main assumptions and support working papers

- 1
- 2
- 3
- 4
- etc.

STAGE 2 - CAPITAL PROJECT APPRAISAL  
FINANCIAL ASSESSMENT OF ASSOCIATED REVENUE BUDGET IMPLICATIONS

Capital Programme:

General Fund

Client Service:

Education

Project Name:

Proposed New Nursery at Orkney College

		1	2	3	4	5		
REVENUE COSTS / (SAVINGS)	Total £ 000	2022/23 £ 000	2023/24 £ 000	2024/25 £ 000	2025/26 £ 000	2026/27 £ 000	Onwards £ 000	Notes
<b>1. Full Year Operating Costs (at inflated prices)</b>								
Staff Costs	-	-	-	-	-	-	-	1
Other Staff Costs (incl. recruitment, etc.)	-	-	-	-	-	-	-	
Property Costs	-	-	-	-	-	-	-	
Supplies and Services	-	-	-	-	-	-	-	
Transport, Vessel and Plant Costs	-	-	-	-	-	-	-	
Administration Costs	-	-	-	-	-	-	-	
Apportioned Costs	-	-	-	-	-	-	-	
Third Party Payments	-	-	-	-	-	-	-	
Finance and Loan Charges	251	12	31	50	54	53	52	
Miscellaneous Expenditure	-	-	-	-	-	-	-	
<b>Gross Revenue Expenditure / (Saving)</b>	251	12	31	50	54	53	52	
<b>2. Operating Income (at inflated prices)</b>								
Government Grants	-	-	-	-	-	-	-	
Other Grants	-	-	-	-	-	-	-	
Rents and Lettings	100	-	-	25	25	25	25	
Sales	-	-	-	-	-	-	-	
Fees and Charges	-	-	-	-	-	-	-	
Miscellaneous Income	-	-	-	-	-	-	-	
<b>Gross Revenue Income</b>	100	-	-	25	25	25	25	
<b>Net Revenue Expenditure / (Saving) of Project</b>	151	12	31	25	29	28	27	
Increase / (Reduction) in Revenue Costs	151	12	31	25	29	28	27	
Net Present Value	65	12	30	23	26	25	24	
Cost of Revenue		3%	3%	3%	3%	3%	3%	
Year		0	1	2	3	4	5	

**Notes** - Additional narrative on main assumptions and support working papers

1 Staf, utilities costs and supplies and services will be funded by commercial operator

2 Average loan charges over 40 years of £39,669 with IIF award of £1.5M

3

4

## **Minute**

### **Human Resources Sub-committee**

Tuesday, 1 February 2022, 14:00.

Microsoft Teams.



### **Present**

Councillors W Leslie Manson, Alexander G Cowie, Robin W Crichton, Steven B Heddle, John T Richards, Gwenda M Shearer, James W Stockan and Duncan A Tullock.

### **Clerk**

- Sandra Craigie, Committees Officer.

### **In Attendance**

- Gareth Waterson, Interim Executive Director of Finance, Regulatory, Marine and Transportation Services.
- James Wylie, Executive Director of Education, Leisure and Housing.
- Gavin Mitchell, Head of Legal Services.
- Hazel Flett, Senior Committees Officer.
- Craig Walker, Senior Human Resources Adviser.

### **Observing**

- Rebecca McAuliffe, Press Officer

### **Declarations of Interest**

- Councillor Stephen B Heddle – Item 2.
- Councillor Gwenda M Shearer – Item 2.
- Councillor Duncan A Tullock – Item 2.

### **Chair**

- Councillor W Leslie Manson.

## **1. Form of Voting**

The Sub-committee resolved that, should a vote be required in respect of the matters to be considered at this meeting, notwithstanding Standing Order 21.4, the form of voting should be by calling the roll (recorded vote).

## **2. Annual Leave and Public Holidays – Policy and Procedure**

Councillors Steven B Heddle, Gwenda M Shearer and Duncan A Tullock declared non-financial interests in this item, in that close family members were employed by the Council, but concluded that their interests did not preclude their involvement in the discussion.

After consideration of a report by the Executive Director of Education, Leisure and Housing, together with an Equality Impact Assessment, copies of which had been circulated, and after hearing a report from the Senior Human Resources Adviser, the Sub-committee:

Noted:

**2.1.** That the Council currently had a range of varying terms and conditions of service, statutory requirements and guidance in relation to Annual Leave and Public Holidays, but no single policy and procedure.

On the motion of Councillor James W Stockan, seconded by Councillor Robin W Crichton, the Sub-committee resolved to **recommend to the Council**:

**2.2.** That the Annual Leave and Public Holidays – Policy and Procedure, attached as Appendix 1 to this Minute, be approved.

## **3. Conclusion of Meeting**

At 14:13 the Chair declared the meeting concluded.

Signed: W Leslie Manson.





**Annual Leave and Public Holidays**

**Policy and Procedure**

**March 2022**

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## **1. Scope of Policy**

The Annual Leave and Policy and Procedure will apply to all employees of Orkney Islands Council, including Scottish Joint Council (SJC)/Single Status employees, Teachers and other employees covered by Scottish Negotiating Committee for Teachers (SNCT) conditions of service, Orkney College Academic staff, Chief Officers including Heads of Service, Executive Directors, and the Chief Executive.

The Annual Leave and Public Holidays Policy and Procedure will be reviewed by the Head of Human Resources and Performance, or their nominated representative, in conjunction with recognised trade unions in line with the schedule for the review of all Council Human Resources Policies and Procedures, normally every five years. Should changes to employment law or Schemes of Conditions of Service dictate, a review within this timescale can be carried out by agreement with the Head of Human Resources and Performance.

Annexes to this policy and procedure and subsequent guidance issued in respect of facilitating the proper use of this policy and procedure shall be revised and updated by the Head of Human Resources and Performance or their nominated representative as appropriate. Such revisions, other than where they would constitute substantive change to practice, shall not normally require further consultation with the recognised Trade Unions or that the policy is formally submitted to Council for approval.

## **2. General**

This policy contains details of the Council's standard procedure for administering and recording the taking of annual leave.

Staff may be required to take any part of their annual leave entitlement on such dates as the Council may require.

All leave requested must be properly recorded and authorised by the Line Manager and must be within the exigencies of the service, prior to leave being taken. Managers are responsible for monitoring levels of annual leave taken and ensuring that leave is taken by their team members.

For the purposes of holiday pay, a reference working week is defined as Sunday to Saturday.

## **3. Statutory Leave Entitlement**

There is a statutory entitlement to 20 days holiday and 8 public holidays, or 28 days (5.6 weeks) based on a full-time (35- or 37-hours contract and 52 weeks working per year). There is a pro-rata entitlement for part-time and part-week/year working.

Any reference to statutory leave entitlement within this document refers to this 28-day (5.6 weeks) entitlement.

Statutory leave entitlement must be taken by employees and payment in lieu of all or part of this cannot be made, other than where employment ends and the leave has not been able to be taken.

## 4. Council Staff - Scottish Joint Council (SJC) Conditions of Service

### 4.1. Leave Year

The leave year for staff covered by SJC conditions of service runs from 1 April to 31 March each year.

### 4.2. Annual Leave

#### 4.2.1. Entitlement

The entitlement to annual leave is defined under contracts of employment for all staff. The entitlement is based on a full-time (35- or 37-hours contract and 52 weeks working per year). There is a pro-rata entitlement for part-time and part-week/year working.

<b>Annual Leave Entitlement excluding Public Holidays</b>			
	Entitlement in days	Entitlement in hours (35-hour FTE post)	Entitlement in hours (37-hour FTE post)
Less than 1 years' service at 1 April	23	161	170.2
More than 1 years' service at 1 April but less than 2	24	168	177.6
More than 2 years' service at 1 April but less than 3	25	175	185
More than 3 years' service at 1 April but less than 4	26	182	192.4
More than 4 years' service at 1 April but less than 5	27	189	199.8
5 years or more service at 1 April	28	196	207.2

A spreadsheet to automatically calculate pro-rata leave and public holiday entitlement for starters, leavers and part-time/part week or year is available from Human Resources and should be used as the default method of calculation.

#### 4.2.2. Payment – Workers with fixed hours or pay

Payment for annual leave where an individual has fixed working hours or pay, i.e. full-time, or part-time contracted hours of work, is paid at the normal rate of pay for the post (grade and spinal column point for the individual employee). This will include fixed contractual allowances including Distant Islands Allowance and Unsocial Hours/Shift/Night Working payments.

For part-time contracted staff an 8.3% premium is paid in lieu of leave entitlement for any ad-hoc additional hours worked and overtime, therefore these hours should not be considered when working out contractual leave entitlement.

Where part-time contracted employees are regularly working additional hours more than their contract (4 weeks or more consecutively), they have a right to have a temporary amendment to their contract progressed via a Change in Establishment. This will then adjust their annual leave and public holiday entitlement, rather than them being paid the 8.3% premium.

#### **4.2.3. Payment – Workers without fixed hours or pay (casual/supply/relief)**

Payment for annual leave where an individual has no fixed working hours or pay i.e., casual, supply or relief workers, is paid at the normal rate of pay for the post (grade and spinal column point for the individual employee), this will include fixed contractual allowances including Distant Islands Allowance and Unsocial Hours/Shift/Night Working payments.

Calculation of annual leave pay for workers without fixed hours of pay is subject to the following requirements:

- Holiday pay is calculated using an average taken from the last 52 weeks in which they have worked and earned pay.
- Weeks where no work has been carried out and no pay earned must be discounted, weeks covered by annual leave, public holidays, sick pay, paid maternity leave etc are included as weeks where work undertaken and pay given (weeks of no pay for sickness, maternity etc are not included).
- There is no requirement to look back more than 104 weeks (2 years) to get 52 weeks in which work has been done and pay earned.
- If there is no 52 weeks worked in last 104 weeks (2 years) then an average of the actual weeks worked will be used.

Where casual/supply or relief workers are regularly working (4 weeks or more consecutively), they have a right to have a temporary contract progressed via a Change in Establishment.

### **4.3. Public Holidays**

#### **4.3.1. Entitlement**

There are 10 Council public holidays each year. The Council may require some or all the public holidays and up to 3 days annual leave to be taken during the Christmas/New Year period.

The Council public holiday days are:

- Easter Monday.
- May Day.
- Dounby Show Day.
- Christmas Day.
- Boxing Day.
- 3 days between Christmas and New Year.
- New Year's Day.
- 2 January.

Where the Christmas Day and New Year's Day fall on a Saturday or Sunday, the Christmas/Boxing Day and New Year/2 January holidays will be subject to replacement days as show below for employees with normal patterns of work of Monday to Friday.

<b>Day of the week the 25th falls on:</b>	<b>Christmas</b>	<b>New Year</b>
Monday	25 (Monday) and 26 December (Tuesday)	1 (Monday) and 2 January (Tuesday)
Tuesday	25 (Tuesday) and 26 December (Wednesday)	1 (Tuesday) and 2 January (Wednesday)
Wednesday	25 (Wednesday) and 26 December (Thursday)	1 (Wednesday) and 2 January (Thursday)
Thursday	25 (Thursday) and 26 December (Friday)	1 (Thursday) and 2 January (Friday)
Friday	25 (Friday) and 28 December (Monday)	1 (Friday) and 4 January (Monday)
Saturday	27 (Monday) and 28 December (Tuesday)	3 (Monday) and 4 January (Tuesday)
Sunday	26 (Monday) and 27 December (Tuesday)	2 (Monday) and 3 January (Tuesday)

Anyone commencing or finishing employment with the Council part way through the leave year will be entitled to a pro-rata entitlement of the 10 days public holiday, again based on the number of complete calendar weeks worked in that leave year. See section 4.5.2.

The public holiday days which fall on a working day during the contracted period must then be deducted from total public holiday entitlement for the year.

Where there is insufficient public holiday entitlement to cover the public holidays falling during an individual's working pattern, they are required to use annual leave entitlement to cover these. The use of time off in lieu (TOIL) or Flexi leave for this purpose is not permitted.

#### **4.3.2. Payment - employees whose working pattern does not normally include public holiday working (i.e., their place of work is closed on a public holiday)**

Work on a general or public holiday will be paid at the rate of double time in complete recompense or single time with equivalent TOIL. Overtime worked on 25 December, 26 December, 1 January and 2 January will be paid at the rate of double time with equivalent TOIL.

The TOIL entitlement is as follows:

- Where the time worked is up to 4 hours the TOIL will be 4 hours, or
- Where the time worked is more than 4 hours and up to 7 hours the TOIL will be 7 hours.
- Where the time worked is more than 7 hours, TOIL will be the actual hours worked.

#### **4.3.3. Payment - employees whose working pattern normally includes public holiday working and are in receipt of unsocial hours allowances (i.e. their place of work remains open and operational on a public holiday)**

Where the normal working pattern for an employee includes working on public holidays (e.g. residential care homes for older people or children) and the individual receives payment of an unsocial hour's allowance, there will be no separate recognition for contracted hours worked on public and general holidays except for hours worked on 25 December and 1 January (not the replacement days) which will attract double time.

Public holiday days for these employees will be added to the annual leave entitlement and can be requested through agreement by management in line with the provisions on requesting annual leave. Work on Christmas Day and New Year's Day will attract double time.

#### **4.3.4. Payment – employees whose working pattern normally includes public holiday working and are NOT in receipt of unsocial hours allowances (i.e., their place of work remains open and operational on a public holiday)**

Work on a general or public holiday will be paid at the rate of double time in complete recompense or single time with equivalent TOIL. Work on 25 December, 26 December, 1 January and 2 January will be paid at the rate of double time with equivalent TOIL.

The TOIL entitlement is as follows:

- Where the time worked is up to 4 hours the TOIL will be 4 hours, or
- Where the time worked is more than 4 hours and up to 7 hours the TOIL will be 7 hours.
- Where the time worked is more than 7 hours, TOIL will be the actual hours worked.

### **4.4. Shift Workers, Part-Time, Term-Time and other working patterns**

#### **4.4.1. Pro-rata Entitlement**

Leave and public holiday entitlement for part-time, term-time staff is always pro-rata of the full-time entitlement. The entitlement is calculated pro-rata on both weekly contracted hours and the number of weeks worked in the year (including leave and public holidays).

See Annex 1 for Term Time Working Weeks.

Full-time working is defined as working the normal full-time hours for the post (either 35 or 37) for 52 weeks of the year.

A spreadsheet to automatically calculate pro-rata leave and public holiday entitlement for starters, leavers and part-time/part week or year is available from Human Resources and should be used as the preferred method of calculation.

### **4.5. Annualised Hours Contracted Employees**

Annualised hours contracted employee have the same entitlements to annual leave and public holidays on a pro-rata basis as other contracted staff. Given the specific nature of annualised hours working there are some specific provisions that will need to be taken into account in relation to the management of annual leave and public holidays.



Annual leave and Public Holiday entitlement should be calculated in hours. The following table gives the full-time equivalent figures.

<b>Annualised Hours Annual Leave and Public Holiday Entitlement (1.0 FTE)</b>			
	Entitlement in days	Entitlement in hours (35-hour FTE post)	Entitlement in hours (37-hour FTE post)
Less than 1 years' service at 1 April	33	231	244.2
More than 1 years' service at 1 April but less than 2	34	238	251.6
More than 2 years' service at 1 April but less than 3	35	245	259
More than 3 years' service at 1 April but less than 4	36	252	266.4
More than 4 years' service at 1 April but less than 5	37	259	273.8
5 years or more service at 1 April	38	266	281.2

Pro-rata combined annual leave and public holiday entitlement for annualised hours employees is calculated by aggregating annual leave entitlement, public holidays and floating hours, dividing the total by either 1824.9 (35 FTE) or 1929.18 (37 FTE) and multiplying by the number of annualised contracted hours.

Appropriate leave must be taken for public holidays that fall on days which an employee would normally work.

Annualised hours contracted hours **include** the relevant pro-rata number of hours for annual leave and public holiday each year. Timesheets are therefore not required to be submitted for annual leave and public holidays.

With the increase in annual leave and public holiday entitlement over the first 5 years continuous service, this will see the actual number of hours worked each year reduce slightly. As part of the annual review of annualised hours managers may wish to consider if a proportionate increase in overall annualised hours is necessary.

#### **4.6. Casual/Supply/Relief Workers**

Individuals working under casual/supply/relief arrangements, working ad-hoc hours for no more than 4 consecutive weeks, have an entitlement to pro-rata statutory annual leave and public holiday entitlement.

A spreadsheet to automatically calculate pro-rata annual leave and public holiday entitlement for starters, leavers, and part-time or part-week or part-year is available from Human Resources, as well as the Staff Intranet and the MyView HR/Payroll system portal. This should be the default method of calculation.

Casual/supply/relief staff should be advised of their annual leave entitlement on a regular basis, and they should then seek approval from their line manager as to when this annual leave can be taken. Normal timescales are quarterly, with the accrued leave being taken in the next quarter.

The annual leave should be recorded on staff rotas in hours for the agreed leave days. The corresponding hours for these days should be claimed on the employee's timesheets along with any other hours worked during the period.

It is important to note the annual leave days claimed on a casual/supply/relief member of staff's timesheet are classified statutory leave. This means no payment can be made in lieu of these days (other than on termination of employment) and staff cannot be asked to work in that role or in any other Council employment on these annual leave days.

## **4.7. Starters and Leavers**

### **4.7.1. Annual Leave**

Employees commencing or finishing employment with the Council part way through the annual leave year will be entitled to annual leave and public holidays on a pro-rata basis calculated from the date of commencement to 31 March or from 1 April to their last date of employment in that year as appropriate.

The pro-rata calculation is based on the complete number of calendar weeks worked in that annual leave year and is calculated using the following:

Number of complete calendar weeks worked / 52 (total number of weeks in the leave year)  
X full year leave entitlement for a full time (35 or 37 hour) contract.

Calculations should always be rounded up to the nearest half day or nearest hour for calculations in hours.

Calculations in hours are based on a 7-hour day for 35-hour FTE week contract and a 7.4-hour day for 37-hour FTE week contract.

A spreadsheet to automatically calculate pro-rata leave and public holiday entitlement for starters, leavers, and part-time part-week or year is available from Human Resources and on My View. This should be the default method of calculation.

On leaving employment with the Council where annual leave (and public holiday entitlement) taken is more than the entitlement, the excess leave taken will normally be deducted from the final salary payment.

On leaving employment, any outstanding annual leave (and public holiday entitlement) that is still due should normally be taken prior to leaving employment. Line Managers must ensure deductions are notified to payroll on termination of employment form.

Payment in lieu of outstanding annual leave entitlement on leaving employment will only be made where it is not possible for that leave to be taken prior to leaving employment.

#### 4.7.2. Public Holidays

Employees commencing or finishing employment with the Council part way through the leave year will be entitled to a pro-rata entitlement of the 10 days public holiday, again based on the number of complete calendar weeks worked in that leave year.

The pro-rata calculation is based on number of complete calendar weeks worked in that leave year and is calculated using the following:

Number of complete weeks worked / 52 total number of weeks in the leave year X 10 public holiday days or 70 or 74 public holiday hours.

Calculations should always be rounded up to the nearest half day or nearest hour for calculations in hours.

Calculations in hours are based on 7-hour day for 35-hour FTE week contract and 7.4-hour day for 37-hour FTE week contract.

A spread sheet to automatically calculate pro-rata leave and public holiday entitlement for starters, leavers, and part-time part-week or year is available from Human Resources and on My View. This should be the default method of calculation.

Public Holidays which fall on a working day during the contracted period must then be deducted from total days due. Where there is insufficient public holiday entitlement to cover the public holidays falling during an individual's working pattern, annual leave entitlement will require to be used to cover these. The use of Time off in lieu (TOIL) of Flexi leave for this purpose is not permitted.

Example annual leave and public holiday entitlements are attached as Annex 2.

#### 4.8. Requesting and Approval of Leave

Employees should make requests to take annual leave to their line manager.

Annual Leave approval is subject to the needs of the Council and cannot be guaranteed. However, the Council will not unreasonably refuse a request for annual leave.

Employees are reminded that they should not book travel or any other arrangements prior to their request for annual leave being granted. The Council will not accept responsibility for any costs associated with pre-existing bookings being amended or cancelled where annual leave is declined.

Employees should plan and make annual leave requests as early in the leave year as possible. This will ensure that line managers can consider requests equitably and ensure adequate cover is always in place. Requests are considered on a first come first served basis.

Employees are requested to give as much notice as possible in relation to annual leave requests. Normally the minimum notice expected to request annual leave is a period of twice the period of annual leave being requested. e.g. a request for two weeks annual leave should normally be submitted no later than four weeks before the first day of leave.

Line Managers should consider requests and confirm approval or not as soon as reasonably possible to allow employees adequate time to make their holiday arrangements.

Examples of what would be considered reasonable management response times are outlined below:

- Where the request for leave is for a week and, subject to the minimum two weeks' notice being given, managers should normally look to respond within a week.
- Where annual leave requests are submitted well in advance of the requested leave, it is expected that managers will normally look to provide a response to the request within two weeks.
- Where an annual leave request is for a short duration e.g. one or two days' where notice of the request is only a few days, managers will normally look to provide a response to the request within one day.
- In exceptional circumstances where the minimum notice period has not been provided, managers should look to respond as soon as possible.

There is no formal appeal mechanism in respect of requests for annual leave being declined. However, individuals would have recourse to the Council's Grievance Policy and Procedure where they consider that they have been treated unfairly or unreasonably and the matter has been unable to be resolved through informal methods.

## **4.9. Carry Forward of Leave**

### **4.9.1. General Provisions**

An employee may carry over up to a maximum of five days annual leave entitlement, from one leave year to the next without the authorisation of their manager. Employees working part-time or part-year may carry over the pro-rata equivalent to five days annual leave entitlement from one leave year to the next without the authorisation of their line manager. This leave is required to be taken by 30 June of the next leave year, otherwise it will be lost.

Any leave above the allowed limit of five days which is not taken by the end of the leave year will be lost unless there is an exceptional reason why the employee needs to carry this annual leave over in the next leave year.

Where an employee wishes to carry over annual leave allocation above the allowed limit, the Annual Leave Exceptional Carry Forward Request form, (Annex 3), must be completed for consideration by the line manager and approval by Executive Director before the end of the leave year for which carry forward is being sought.

Leave approved under exceptional carry forward is required to be taken by 30 June within the next leave year, otherwise it shall be lost.

Where exceptional carry forward is approved there is an expectation that a line manager should ensure that an employee should take their following year's leave entitlement including the exceptional carry forward and that there is no requirement for exceptional carry forward for a second, consecutive year.

#### **4.9.2. Carry Forward – Long Term Sickness**

Employees returning from periods of long-term sickness absence should be encouraged to take all outstanding annual leave entitlement before the end of the current leave year providing that there is sufficient time remaining in the current leave year for them to do so.

Employees who do not take all their outstanding annual leave in the current leave year, even though there is sufficient time remaining to do so, will normally only be allowed to carry forward 5 days annual leave to the following leave year (pro-rata for part-time, part-week and part-year working employees).

Where a period of long-term sickness absence continues over two separate leave years, or a return to work in one year does not allow for time to take all outstanding leave, carry forward of the minimum level of annual leave entitlement should be allowed. No separate approval process is required where the amount of leave carried forward exceeds five days.

Where an employee has been off sick for a period exceeding 18 months, statutory legislation dictates that only annual leave accrued in the first 18 months of sick leave can be carried forward. Annual leave accrued after the first 18-month period of sick leave cannot be taken and a payment will be made to the employee in lieu of the amount of annual leave days lost.

#### **4.9.3. Carry Forward – Maternity, Adoption, Surrogacy Leave**

During a period of maternity, adoption or surrogacy leave an employee will accrue their full normal entitlement to annual leave and public holidays.

Employees returning from periods of maternity, adoption or surrogacy leave should be encouraged to take all outstanding annual leave entitlement, including public holiday entitlement, before the end of the current leave year in which the return-to-work falls providing that there is sufficient time remaining in the current leave year for them to do so.

Where there is insufficient time remaining in the current leave year for an employee to take all their outstanding annual leave entitlement, including public holiday entitlement, carry forward of any outstanding annual leave will be automatic and will not require exceptional approval.

Exceptional carry forward for leave will not normally be given where the reasons for this relate to taking accrued leave from maternity, adoption, or surrogacy leave, a 12-month period is considered more than reasonable time to be able to take such accrued leave.

### **4.10. Annual Leave/Public Holidays and Sickness**

#### **4.10.1. Pro-rata Annual Leave and Public Holidays for Long Term Sickness**

Where an employee has been absent from work due to illness for a continuous period of more than 3 months (12 weeks), annual leave entitlement must be recalculated so that the employee is only awarded an amount of annual leave which is proportionate to the period they have attended work in the leave year.

For example, if an employee has been absent from work for a continuous period of 4 months during the leave year, they should only be awarded 8/12ths of their normal annual leave entitlement. However, it should be noted that an employee's annual leave entitlement **cannot** drop below the statutory minimum of 5.6 weeks (28 days) (pro-rata for part-time, part-week and part-year working employees) after any recalculation has taken place.

Annual leave entitlement should not be recalculated if an employee has already used all their annual leave entitlement prior to being absent from work for a continuous period of more than 3 months.

If the period of continuous sickness absence overlaps two leave years, a separate recalculation must be carried out for each leave year based on the actual period of sickness absence occurring in each leave year.

For example, an employee could have a continuous period of sickness absence for 5 months from 1 February to 30 June. In this case, 2 months of the sickness absence have occurred in the first leave year and 3 months have occurred in the second leave year.

The employee's annual leave entitlement for the first leave year would be recalculated as 10/12ths of their normal annual leave entitlement and the employee's annual leave entitlement for the second leave year would be recalculated as 9/12ths of their normal annual leave entitlement.

Again, it should be noted that an employee's annual leave entitlement **cannot** drop below the statutory minimum of 5.6 weeks (28 days) (pro-rata for part-time, part-week and part-year working employees) after the recalculation has taken place. Employees are entitled to, and must take, the statutory minimum leave entitlement in each leave year.

In calculating remaining leave entitlement, the statutory leave minimum shall include the following:

- All annual leave days taken within the current leave year prior sickness absence.
- All annual leave days taken within the current leave year during sickness absence.
- Any public holiday days within the current leave year that fell prior to or during the period of sickness absence.
- Any public holiday days remaining within the current leave year on return from sickness absence.

#### **4.10.2. Sickness on a Public Holiday**

Sickness absence on one of the Council recognised public holiday days will not entitle an employee to take the public holiday day at a later date. This is in accordance with nationally agreed SJC conditions of service.

#### **4.10.3. Requesting Annual Leave during periods of Sickness Absence**

If an employee wishes to take annual leave during a period of sickness absence, it must be requested and approved in the normal manner specified in Section 4.7. In these circumstances, an employee does not have to provide evidence of their fitness to return to work. They must, however, provide the relevant certification, for example a doctor's note, to cover the continuing period of sickness absence after their period of annual leave entitlement.

Any annual leave entitlement taken during a period of sickness absence is paid at an employee's normal salary rate including Distant Islands Allowance and any relevant contractual allowances such as a weekend enhancement.

The Payroll Section and Human Resources must both be notified when an employee is to be paid annual leave entitlement during a period of sickness absence. This is so that the correct payments can be made to the employee and the correct sickness absence can be recorded against their payroll record.

#### **4.10.4. Reclaiming pre-booked annual leave due to Sickness Absence**

If an employee has a period of sickness absence during authorised annual leave, the line manager can credit the employee with the number of days/hours annual leave which coincides with the period of sickness absence.

In order for this to happen the employee must have satisfied the following provisions:

- Correct notification of the sickness absence must have been given by the employee in accordance with Section 8 of the Council's Sickness Absence Policy and Procedure i.e. on the first day of absence, the fourth day of absence; and
- The employee must provide a medical certificate covering the entire period of annual leave that they want to be credited with (self-certification is not sufficient for these purposes).

It should be noted that this position does not in any way conflict with the statutory sickness certification process, a GP Fit Note is not required, a formal letter or similar correspondence confirming sickness will be sufficient.

Any costs associated with the provision of a medical certificate in respect of this provision are the employee's responsibility and will not be paid by the Council and cannot be reclaimed from the Council. The Council's Occupational Health Adviser will not be used for the purpose of confirming sickness so that an employee can reclaim leave entitlement.

#### **4.11. Annual Leave/Public Holidays and Unpaid Leave of Absence**

Where unpaid leave of absence is granted for an employee totalling 1 week or more (either 1 full week or a series of individual days totalling a normal working week for that individual) in any annual leave year, a pro-rata reduction in annual leave and public holiday entitlement shall apply.

#### **4.12. Annual Leave, Public Holiday, and Other work/employment**

Annual Leave and Public Holidays are, under statute, a break from work/employment. The Council, therefore, has an obligation to ensure that all employees must take statutory breaks from any work/employment. Consequently, an employee must not take annual leave/public holidays so that they can participate in other work/employment, either within or out with the Council.

#### **4.13. Annual Leave/Public Holidays and Related Policies**

Further specific provisions relating to annual leave and public holidays which are linked to other Council HR Policies and Procedures including Maternity, Adoption, Surrogacy and Leave of Absence are included within these Policies and Procedures.

### **5. SNCT Staff (including Teachers, Music Instructors and Educational Psychologists)**

#### **5.1. Leave Year**

For Teachers and Music Instructors the leave year shall run in conjunction with the school year for Orkney Islands Council. Dates for each school year are agreed by the Orkney Joint Negotiating Committee for Teachers (OJNCT).

For Educational Psychologists, Education Support Officers and Quality Improvement Officers and Quality Improvement Managers (or roles paid as these), the leave year runs from 1 April to 31 March.

#### **5.2. Annual Leave and Public Holiday Entitlement**

##### **5.2.1. Teachers and Music Instructors**

The annual leave entitlement of a full-time teacher or music instructor shall be 40 days, inclusive of public holidays.

Pro rata arrangements shall apply to part time staff and those employed for any part of the leave year.

The placement of the 40 days annual leave within the school holiday periods shall be determined by OJNCT. Allocation of the leave days shall be in a broadly proportionate manner across the four main school holiday periods Autumn, Winter, Spring and Summer.

Teachers and music instructors will accrue paid leave of 0.20513 of a day for each day worked in the school session and pro-rata for each part day worked in the school session.

'Days worked' include any period of family leave, any period of sickness absence and any other form of paid leave, except for annual leave. Accrued annual leave because of family leave will count as 'days worked'.



### **5.2.2. Educational Psychologists, Education Support Officers and Quality Improvement Officers and Quality Improvement Managers (or roles paid as these)**

For employees with less than 5 years continuous service at the beginning of a leave year, leave entitlement is 35 days, inclusive of public holidays.

For employees with 5 years or more continuous service at the beginning of a leave year, leave entitlement is 40 days, inclusive of public holidays

## **5.3. Entitlement – Starters and Leavers**

### **5.3.1. Teachers and Music Instructors - Leave on Commencement of Employment**

A teacher or music instructor working for an entire school session will accrue full leave entitlement of 40 days inclusive of public holidays, pro-rata for part-time teachers or music instructors.

Where a teacher or music instructor joins from another Scottish Council mid-way through a leave year, their combined leave entitlement across the two Councils shall total 40 days inclusive of public holidays, pro-rata for part-time teachers or music instructors.

Where a teacher or music instructor joins from an organisation other than a Scottish Council midway through a leave year, leave entitlement shall be calculated as 0.20513 for each day worked for Orkney Islands Council in that leave year.

### **5.3.2 Teachers and Music Instructors - Leave on Termination of Employment**

Where a teacher or music instructor leaves to join another Scottish Council mid-way through a leave year, their combined leave entitlement across the two Councils shall total 40 days inclusive of public holidays, pro-rata for part-time teachers or music instructors.

Where a teacher or music instructor leaves midway through a leave year to join an organisation other than another Scottish Council, or leaves employment altogether, leave entitlement shall be calculated as 0.20513 for each day worked for Orkney Islands Council in that leave year.

Where a teacher or music instructor leaves employment, their outstanding leave entitlement is calculated by taking the number of days leave accrued within the school session and deducting the number of days leave they have already taken.

On leaving employment, if it transpires that a teacher or music instructor has taken more leave entitlement than they have accrued, a day's pay shall be recovered from the teacher or music instructor's final salary payment for each day taken more than the accrued entitlement.

If it transpires that the teacher or music instructor has taken less annual leave entitlement than they have accrued, and the balance of annual leave cannot be taken, a day's pay for each unused day of leave should be paid along with the teacher or music instructor's final salary payment.

### **5.3.3. Educational Psychologist/Education Support Officer, Quality Improvement Officer or Quality Improvement Manager (or roles paid as these)**

Where an Educational Psychologist/Education Support Officer, Quality Improvement Officer or Quality Improvement Manager (or roles paid as these) commences or leaves employment part way through a leave year, they will have pro-rata entitlement to either 35 or 40 days leave inclusive of public holiday for that leave year.

The pro-rata calculation is done on the complete number of weeks worked in that leave year as per Section 4.6.1.

On leaving employment, if it transpires that an Educational Psychologist/Education Support Officer, Quality Improvement Officer or Quality Improvement Manager (or roles paid as these) has taken more leave entitlement than they have accrued, a day's pay shall be recovered from the Educational Psychologist/Education Support Officer, Quality Improvement Officer or Quality Improvement Manager (or roles paid as these) final salary payment for each day taken more than the accrued entitlement.

If it transpires that the Educational Psychologist/Education Support Officer, Quality Improvement Officer or Quality Improvement Manager (or roles paid as these) has taken less annual leave entitlement than they have accrued, and the balance of annual leave cannot be taken, a day's pay for each unused day of leave should be paid along with the Educational Psychologist/Education Support Officer, Quality Improvement Officer or Quality Improvement Manager (or roles paid as these) final salary payment.

## **5.4. Annual Leave/Public Holidays and Sickness**

### **5.4.1. Teachers and Music Instructors**

If a teacher or music instructor has been incapacitated for a continuous period of 8 consecutive days or more and the period of sickness is fully covered by a medical certificate, compensatory leave will accrue as follows:

For each certified period of sickness absence, the teacher or music instructor will accrue compensatory leave of 2 days for every 5 days of designated annual leave which cannot be taken, subject to a maximum credit of 8 such days accruing in any one leave year.

In agreement with their Head Teacher/Manager, compensatory leave entitlement shall be taken following the teacher or music instructor's return to work. The timing of this leave is subject to the overriding needs of the service and should normally be taken in the term in which the employee returns to work or, if this is not possible, in the following term.

Where a teacher or music instructor has not taken, or will be unable to take, their statutory leave entitlement (28 days) within a leave year because of certified sickness, they shall receive the appropriate balance of leave to bring their total leave to the statutory leave entitlement for that leave year.

Such leave will normally be carried forward into the following leave year. Pro rata arrangements shall apply to part time staff and those employed for any part of the leave year.

Where a teacher or music instructor is carrying forward compensatory leave entitlement and statutory leave entitlement the total of such leave shall not exceed the maximum statutory leave entitlement.

A teacher or music instructor is entitled to take, in full or in part, the appropriate balance of leave up to the statutory leave provision during a period of sickness absence. Where such leave is taken during a period of sickness absence, pay shall be the normal pay for each day (inclusive of Statutory Sick Pay and replacing Sickness Allowance).

Any leave up to the statutory leave entitlement which remains untaken at the end of the leave year, shall be carried forward into the next leave year and shall be taken following the employee's return to work. The timing of this leave shall take account of the needs of the service and should normally be taken in the term in which the return to work takes place or within the following term.

#### **5.4.2. Educational Psychologists, Education Support Officers and Quality Improvement Officers and Quality Improvement Managers (or roles paid as these)**

Any period of sickness absence which coincides with a period of annual leave should be regarded as sickness absence if the appropriate self-certificate or statement of fitness for work is submitted.

If the period of sickness absence exceeds 3 months during a leave year, the Council has discretion to either give the employee full annual leave entitlement or to limit it to an amount of annual leave which is proportionate to the period they have attended work in the leave year (subject to the minimum statutory leave provisions).

Where statutory leave provision has not been taken within a leave year owing to certified sickness, the appropriate balance of leave to bring the total leave to the statutory leave provision for that leave year should be provided. Pro rata arrangements shall apply to part time staff and those employed for any part of the leave year.

Any untaken leave up to the statutory leave provision which remains untaken at the end of the leave year, shall be carried forward into the next leave year and shall be taken following the employee's return to work. The timing of this leave shall take account of the needs of the service and should normally be taken as soon as possible following the return to work.

### **5.5. Annual Leave/Public Holidays and Related Policies**

Further specific provisions relating to annual leave and public holidays which are linked to other Council HR Policies and Procedures including Maternity, Adoption and Leave of Absence are included within these Policies and Procedures and within SNCT Conditions of Service (<http://www.snct.org.uk>).

## **6. Orkney College Staff (Academic and Support staff)**

### **6.1. Leave Year**

The Leave Year for Orkney College is from 1 September to 31 August.

### **6.2. Entitlement – Annual Leave**

#### **6.2.1. College Academic Staff**

Leave entitlement is 55 days inclusive of all public holidays.

College Academic staff shall be entitled to a minimum 25 days' continuous leave (5 weeks), excluding Saturdays and Sundays, during the months of June, July and August.

The Council may require some or all the annual leave entitlement to be taken during the Christmas/New Year period.

#### **6.2.2. College Support Staff**

Annual Leave and Public Holiday entitlements and provisions for College Support Staff are the same as those for Council Staff (SJC Conditions of Service), see section 4.3.

### **6.3. Entitlement – Public Holidays**

#### **6.3.1. College Academic Staff**

Public holiday days for Orkney College Academic Staff are the same as those for Council staff (see Section 4.3) and are included within their inclusive leave entitlement as detailed in section 6.2.1.

#### **6.3.2. College Support Staff**

Annual Leave and Public Holiday entitlements and provisions for Orkney College Support Staff are the same as those for Council Staff (SJC Conditions of Service), see section 4.

### **6.4. Other Provisions**

All other provisions in respect of annual leave and public holidays for Orkney College Academic and Support staff are in line with those outlined in this policy and procedures under Section 4 Council Staff (SJC).

### **6.5. NJNC National Bargaining for Scottish Colleges**

At the time of writing and approval of this Policy, Orkney Islands Council is not a signatory to the National Recognition and Procedures Agreement for Staff in Scottish Colleges in respect of Terms and Conditions (including annual leave and public holidays) for College Academic Staff or Pay and Terms and Conditions (including annual leave and public holidays) for College Support staff.

Should that position change in the future it may be necessary to review and amend this section should annual leave and public holiday entitlements or provisions be different to those detailed in this policy.

## **7. Chief Officers (SJNC Chief Officials Conditions of Service)**

Annual Leave Entitlement for Chief Officers is 30 days per annum. In all other respects annual leave and public holiday policy and provisions is the same as SJC staff, as covered in Section 4 of this policy.

## Annex 1

### Term Time Working Weeks including Annual Leave and Public Holiday Entitlement

\*Figures are comparative working weeks to a full year 52 week working pattern and are inclusive of leave and public holiday entitlement.

<b>Working 20 weeks per year (excluding Leave and Public Holiday Entitlement)</b>		
Continuous Service at Start of Leave Year	Leave and Public Holidays (weeks)	Total Working Weeks incl. Leave and Public Holidays*
Up to 1 year	2.90	22.90
1 year but less than 2 years	3.00	23.00
2 year but less than 3 years	3.10	23.10
3 year but less than 4 years	3.20	23.20
4 year but less than 5 years	3.31	23.31
5 years or more	3.41	23.41

<b>Working 26 weeks per year (excluding Leave and Public Holiday Entitlement)</b>		
Continuous Service at Start of Leave Year	Leave and Public Holidays (weeks)	Total Working Weeks incl. Leave and Public Holidays*
Up to 1 year	3.77	29.77
1 year but less than 2 years	3.90	29.90
2 year but less than 3 years	4.03	30.03
3 year but less than 4 years	4.17	30.17
4 year but less than 5 years	4.30	30.30
5 years or more	4.44	30.44

<b>Working 36 weeks per year (excluding Leave and Public Holiday Entitlement)</b>		
Continuous Service at Start of Leave Year	Leave and Public Holidays (weeks)	Total Working Weeks incl. Leave and Public Holidays*
Up to 1 year	5.51	41.51
1 year but less than 2 years	5.70	41.70
2 year but less than 3 years	5.89	41.89
3 year but less than 4 years	6.09	42.09
4 year but less than 5 years	6.29	42.29
5 years or more	6.48	42.48

<b>Working 38 weeks per year (excluding Leave and Public Holiday Entitlement)</b>		
Continuous Service at Start of Leave Year	Leave and Public Holidays (weeks)	Total Working Weeks incl. Leave and Public Holidays*
Up to 1 year	5.51	43.51
1 year but less than 2 years	5.70	43.70
2 year but less than 3 years	5.89	43.89
3 year but less than 4 years	6.09	44.09
4 year but less than 5 years	6.29	44.29
5 years or more	6.48	44.48

<b>Working 39 weeks per year (excluding Leave and Public Holiday Entitlement)</b>		
Continuous Service at Start of Leave Year	Leave and Public Holidays (weeks)	Total Working Weeks incl. Leave and Public Holidays*
Up to 1 year	5.65	44.65
1 year but less than 2 years	5.85	44.85
2 year but less than 3 years	6.05	45.05
3 year but less than 4 years	6.25	45.25
4 year but less than 5 years	6.45	45.45
5 years or more	6.65	45.65

<b>Working 40 weeks per year (excluding Leave and Public Holiday Entitlement)</b>		
Continuous Service at Start of Leave Year	Leave and Public Holidays (weeks)	Total Working Weeks incl. Leave and Public Holidays*
Up to 1 year	5.80	45.80
1 year but less than 2 years	6.00	46.00
2 year but less than 3 years	6.20	46.20
3 year but less than 4 years	6.41	46.41
4 year but less than 5 years	6.62	46.62
5 years or more	6.83	46.83

<b>Working 41 weeks per year (excluding Leave and Public Holiday Entitlement)</b>		
Continuous Service at Start of Leave Year	Leave and Public Holidays (weeks)	Total Working Weeks incl. Leave and Public Holidays*
Up to 1 year	5.94	46.94
1 year but less than 2 years	6.15	47.15
2 year but less than 3 years	6.36	47.36
3 year but less than 4 years	6.57	47.57
4 year but less than 5 years	6.78	47.78
5 years or more	7.00	48.00

<b>Working 42 weeks per year (excluding Leave and Public Holiday Entitlement)</b>		
Continuous Service at Start of Leave Year	Leave and Public Holidays (weeks)	Total Working Weeks incl. Leave and Public Holidays*
Up to 1 year	6.09	48.09
1 year but less than 2 years	6.30	48.30
2 year but less than 3 years	6.51	48.51
3 year but less than 4 years	6.73	48.73
4 year but less than 5 years	6.95	48.95
5 years or more	7.17	49.17

<b>Working 43 weeks per year (excluding Leave and Public Holiday Entitlement)</b>		
Continuous Service at Start of Leave Year	Leave and Public Holidays (weeks)	Total Working Weeks incl. Leave and Public Holidays*
Up to 1 year	6.23	49.23
1 year but less than 2 years	6.45	49.45
2 year but less than 3 years	6.67	49.67
3 year but less than 4 years	6.89	49.89
4 year but less than 5 years	7.11	50.11
5 years or more	7.34	50.34



<b>Working 44 weeks per year (excluding Leave and Public Holiday Entitlement)</b>		
Continuous Service at Start of Leave Year	Leave and Public Holidays (weeks)	Total Working Weeks incl. Leave and Public Holidays*
Up to 1 year	6.38	50.38
1 year but less than 2 years	6.60	50.60
2 year but less than 3 years	6.82	50.82
3 year but less than 4 years	7.05	51.05
4 year but less than 5 years	7.28	51.28
5 years or more	7.51	51.51

## Annex 2

### Example SJC Starter and Leaver calculations

#### Example 1

John commenced employment as a Social Care Assistant on 6 January 2020, working 37 hours per week for 52 weeks per year. He does not have continuous service with another Council so his full annual leave entitlement for a year is 33 days, i.e., 23 days plus 10 public holidays as he has less than 1 years' service.

In his first year of employment John will work 12 complete weeks from 6 January 2020 to 31 March 2020. This will entitle him to 8 days annual leave entitlement, i.e.  $(12 \text{ weeks} \div 52 \text{ weeks}) \times 33 \text{ days} = 7.6 \text{ days}$ , rounded up to 8 days.

#### Example 2

Mary leaves employment on 28 August 2020 after working for the Council for 25 years as a part-time Clerical Assistant on a contract of 21 hours per week, or 0.60 FTE. As she has more than 5 years' service at her date of leaving her full annual leave entitlement for a year is 160 hours i.e.  $(196 \text{ hours annual leave plus } 70 \text{ public holiday hours}) \times 0.60 \text{ FTE} = 159.60 \text{ hours}$  rounded up to 160 hours.

In her last year of employment Mary will have worked for 21 complete weeks from 1 April 2020 to 28 August 2020 so her annual leave entitlement for her final year will be 65 hours, i.e.  $(21 \text{ weeks} \div 52 \text{ weeks}) \times 160 \text{ hours} = 64.61 \text{ hours}$ , rounded up to 65 hours.

#### Example 3

Karen commences employment as a school cook on 17 August 2020 working 25 hours per week term-time for 43.51 weeks per year, or 0.5654 FTE i.e.  $(25 \text{ hours} \times 43.51 \text{ weeks}) \div (37 \text{ hours} \times 52 \text{ weeks})$ . She does not have continuous service with another Council so her full annual leave entitlement for a year is 138 hours i.e.  $(170 \text{ hours annual leave plus } 74 \text{ public holiday hours}) \times 0.5654 \text{ FTE} = 137.95 \text{ hours}$  rounded up to 138 hours.

In her first year of employment Karen will have worked 32 complete weeks from 17 August 2020 to 31 March 2021 so her annual leave entitlement for her first year will be 85 hours, i.e.  $(32 \text{ weeks} \div 52 \text{ weeks}) \times 138 \text{ hours} = 84.92 \text{ hours}$ , rounded up to 85 hours.

#### Example 4

Ken commences employment as a seasonal road worker on 18 May 2020 on a short-term contract until 28 August 2020, working 37 hours per week. He does not have continuous service with another Council so his full annual leave entitlement for a year is 33 days, i.e., 23 days plus 10 public holidays as he has less than 1 years' service.

During his short-term contract Ken will work 15 complete weeks from 18 May 2020 to 28 August 2020. This will entitle him to 10 days annual leave entitlement, i.e.  $(15 \text{ weeks} \div 52 \text{ weeks}) \times 33 \text{ days} = 9.52 \text{ days}$ , rounded up to 10 days.

## Annex 3

### Annual Leave Exceptional Carry Forward Request



(Form is to be submitted prior to end of leave year from which carry forward is being requested)

<b>Employee Name</b>	
<b>Job Title</b>	
<b>Work Location</b>	

**Number of days requested to be carried forward from previous year:\*** \_\_\_\_\_

\* Total number is to include the 5 days that can be carried over without authorisation and any additional days that require authorisation.

Explanation for seeking exceptional carry forward:
--

I confirm that I understand that if approved this leave must be taken by 30 June in the next leave year or it will be lost and if exceptional carry forward leave is not approved, I will be able to carry forward only 5 days pro-rata.

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

**Line Manager Agreement**      In Agreement       Not in Agreement

Comments:
-----------

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

**Executive Director Approval**      Approved       Not Approved

Comments:
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Employee : \_\_\_\_\_ Date: \_\_\_\_\_

Copy to Employee with original to Employee Personal File

## **Minute**

### **Police and Fire Sub-committee**

Tuesday, 22 February 2022, 14:00.

Microsoft Teams.



### **Present**

Councillors Andrew Drever, David Dawson, Alexander G Cowie, J Harvey Johnston, Gwenda M Shearer, Magnus O Thomson and Heather N Woodbridge.

### **Clerk**

- Sandra Craigie, Committees Officer.

### **In Attendance**

- Hayley Green, Corporate Director for Neighbourhood Services and Infrastructure.
- Kenny Macpherson, Interim Head of IT and Facilities.
- Georgette Herd, Solicitor.
- David Miller, Safety and Resilience Officer.

### **Police Scotland:**

- Chief Superintendent Conrad Trickett, Divisional Commander (North Division).

### **Scottish Fire and Rescue Service:**

- Raymond Fallon, Group Commander.
- Alex McKinley, Group Commander.

### **Observing**

- Rebecca McAuliffe, Press Officer.

### **Declaration of Interest**

- Councillor Andrew Drever – Item 3.

### **Chair**

- Councillor Andrew Drever.

## **1. Form of Voting**

The Sub-committee resolved that, should a vote be required in respect of the matters to be considered at this meeting, notwithstanding Standing Order 21.4, the form of voting should be by calling the roll (recorded vote)

## **2. Performance Against Orkney Fire and Rescue Plan**

After consideration of a report by Iain Macleod, Local Senior Officer, copies of which had been circulated, and after hearing a report from Raymond Fallon, Group Commander, the Sub-committee:

Scrutinised the statistical performance of the Scottish Fire and Rescue Service, Orkney Islands area, for the period 1 October to 31 December 2021, detailed in the Quarterly Performance Report, attached as Appendix 1 to the report by the Local Senior Officer, and obtained assurance.

Councillor Magnus O Thomson joined the meeting at this point.

## **3. Performance Against Local Policing Plan**

Councillor Andrew Drever declared a non-financial interest in this item, in that he was Chair of Orkney Drugs Dog, but as the matter was not discussed in detail, he did not leave the meeting.

After consideration of a report by Chief Superintendent Conrad Trickett, Divisional Commander (North Division), copies of which had been circulated, the Sub-committee:

Scrutinised performance in respect of the Orkney Islands Local Policing Plan 2020-23, for the period 1 April to 31 December 2021, attached as Appendix 1 to the report by the Chief Superintendent, and obtained assurance that progress was being made against the objectives.

## **4. Conclusion of Meeting**

At 15:20 the Chair declared the meeting concluded.

Signed: A Drever.

## **Minute**

### **Asset Management Sub-committee**

Tuesday, 1 February 2022, 09:30.

Microsoft Teams.



### **Present**

Councillors W Leslie Manson, Norman R Craigie, Robin W Crichton, Andrew Drever, Steven B Heddle, John A R Scott and James W Stockan.

### **Clerk**

- Hazel Flett, Senior Committees Officer.

### **In Attendance**

- Hayley Green, Interim Executive Director of Environmental, Property and IT Services.
- Karen Greaves, Head of Executive Support.
- Kenny MacPherson, Interim Head of IT and Facilities.
- Lorna Richardson, Interim Head of Roads, Fleet and Waste.
- Shonagh Merriman, Interim Corporate Finance Senior Manager.
- Michael Scott, Solicitor.
- Thomas Aldred, Interim IT Services Manager.
- Graeme Christie, Estates Manager.
- Ian Rushbrook, Capital Programme Manager.
- John Wrigley, Roads and Environmental Services Manager.
- Sandra Craigie, Committees Officer (for Items 8 to 13).

### **Observing**

- Kirsty Groundwater, Communications Team Leader.
- Jenny McGrath, Community Council Liaison Officer (for Items 4 to 10).

### **Declaration of Interest**

- Councillor John A R Scott – Item 4.

### **Chair**

- Councillor W Leslie Manson.

## **1. Form of Voting**

The Sub-committee resolved that, should a vote be required in respect of the matters to be considered at this meeting, notwithstanding Standing Order 21.4, the form of voting should be by calling the roll (recorded vote).

## **2. Disclosure of Exempt Information**

The Sub-committee noted the proposal that the public be excluded from the meeting for consideration of Items 8 to 12, as the business to be discussed involved the potential disclosure of exempt information of the classes described in the relevant paragraphs of Part 1 of Schedule 7A of the Local Government (Scotland) Act 1973 as amended.

## **3. Revenue Expenditure Monitoring**

After consideration of a report by the Head of Finance, copies of which had been circulated, and after hearing a report from the Interim Corporate Finance Senior Manager, the Sub-committee:

Noted:

**3.1.** The revenue financial summary statement in respect of service areas for which the Asset Management Sub-committee was responsible, for the period 1 April to 31 December 2021, attached as Annex 1 to the report by the Head of Finance, indicating a budget overspend position of £129,100.

**3.2.** The revenue financial detail by service area statement in respect of service areas for which the Asset Management Sub-committee was responsible, for the period 1 April to 31 December 2021, attached as Annex 2 to the report by the Head of Finance.

The Sub-committee scrutinised:

**3.3.** The explanations given and actions proposed in respect of significant budget variances, as outlined in the Budget Action Plan, attached as Annex 3 to the report by the Head of Finance, and obtained assurance that action was being taken with regard to significant budget variances.

## **4. Corporate Asset Improvement Programmes – Expenditure Monitoring**

Councillor John A R Scott declared a non-financial interest in this item, being Vice Chair of the Pickaquoy Centre Trust, but concluded that his interest did not preclude his involvement in the discussion.

After consideration of a report by the Head of Finance, copies of which had been circulated, and after hearing a report from the Interim Corporate Finance Senior Manager, the Sub-committee:

Noted:

**4.1.** The summary position of expenditure incurred, as at 31 December 2021, against the approved corporate asset capital improvement and replacement programmes for 2021/22, as detailed in section 4.1 of the report by the Head of Finance.

The Sub-committee scrutinised:

**4.2.** The detailed analysis of expenditure figures and project updates, attached as Appendix 1 to the report by the Head of Finance, and obtained assurance with regard to significant budget variances and progress being made with delivery of the approved corporate asset capital improvement and replacement programmes for 2021/22.

## **5. Corporate Asset Maintenance Programmes – Expenditure Monitoring**

After consideration of a report by the Head of Finance, copies of which had been circulated, and after hearing a report from the Interim Corporate Finance Senior Manager, the Sub-committee:

Noted:

**5.1.** The summary position of expenditure incurred, as at 31 December 2021, against the approved corporate asset maintenance programmes for 2021/22, as detailed in section 4.1 of the report by the Head of Finance.

The Sub-committee scrutinised:

**5.2.** The detailed analysis of expenditure figures and project updates, attached as Appendix 1 to the report by the Head of Finance, and obtained assurance with regard to significant budget variances and progress being made with delivery of the approved corporate asset maintenance programmes for 2021/22.

## **6. Information Technology Capital Replacement Programme**

After consideration of a report by the Interim Executive Director of Environmental, Property and IT Services, copies of which had been circulated, and after hearing a report from the Interim Head of IT and Facilities, on the motion of Councillor W Leslie Manson, seconded by Councillor John A R Scott, the Sub-committee:

Resolved, in terms of delegated powers:

**6.1.** That the Information Technology Capital Replacement Programme for 2022/23, together with the indicative programme for 2023/24, attached as Appendix 1 to this Minute, to be funded from the allocation of £420,000 per annum within the approved capital programme, be approved.

**6.2.** That powers be delegated to the Interim Executive Director of Environmental, Property and IT Services, in consultation with the Head of Finance, to adjust the two-year programme, referred to at paragraph 6.1 above, as variations arose in order to maximise use of the annual capital allocation.

Councillors Andrew Drever and James W Stockan joined the meeting during discussion of this item.



## **7. Exclusion of the Public**

On the motion of Councillor W Leslie Manson, seconded by Councillor James W Stockan, the Sub-committee resolved that the public be excluded for the remainder of the meeting, as the business to be considered involved the disclosure of exempt information of the classes described in Part 1 of Schedule 7A of the Local Government (Scotland) Act 1973 as amended.

## **8. Corporate Asset Maintenance and Improvement Programmes**

Under section 50A(4) of the Local Government (Scotland) Act 1973, the public had been excluded from the meeting for this item on the grounds that it involved the disclosure of exempt information as defined in paragraph 9 of Part 1 of Schedule 7A of the Act.

After consideration of a report by the Interim Executive Director of Environmental, Property and IT Services, copies of which had been circulated, and after hearing a report from the Capital Programme Manager, the Sub-committee:

Noted:

**8.1.** The three-year projections for the Revenue Repairs and Maintenance and Capital Improvement Programmes for the period 2022/23 to 2024/25, attached as Appendix 1 to the report by the Interim Executive Director of Environmental, Property and IT Services.

**8.2.** That a multi-year approach to the Revenue Repairs and Maintenance and Capital Improvement Programmes allowed for additional flexibility to vary the timing of individual projects as a result of unforeseen events.

**8.3.** That, on 14 January 2021, when considering a revised Stage 2 Capital Project Appraisal in respect of the proposed extension and alterations to St Andrews Primary School, the Council resolved:

- That the existing provision within the General Fund capital programme in respect of the proposed extension and alterations to St Andrews Primary School be increased by £1,092,000, from £3,232,000 to £4,324,000.
- That the additional cost of £1,092,000 be secured through reductions in the annual Corporate Asset Improvement Programme budget, currently £1,351,000 per annum, of £546,000 in each of financial years 2021/22 and 2022/23.
- That powers be delegated to the Head of Finance to make contributions to the Repairs and Renewals Fund to enable reinstatement of the Corporate Asset Improvement Programme, should that prove affordable.

On the motion of Councillor James W Stockan, seconded by Councillor John A R Scott, the Sub-committee resolved, in terms of delegated powers:

**8.4.** That the undernoted programmes for 2022/23, together with provisional programmes for 2023/24 and 2024/25, attached as Appendix 2 to this Minute, be approved:

- General Fund – Revenue Repairs and Maintenance Programme, to be funded from the allocation of £1,708,200 per annum set annually as part of the budget setting process.

- Strategic Reserve Fund Revenue Repairs and Maintenance Programme, to be funded from the allocation of £93,200 per annum set annually as part of the budget setting process.
- General Fund – Capital Improvement Programme, to be funded from the allocation of £805,400 for 2022/23, being the annual budget of £1,351,400 reduced by the contribution of £546,000 in respect of the proposed extension and alterations to St Andrews Primary School, as detailed at paragraph 8.3 above.
- Early Learning and Childcare projects in the sum of £252,000, to be funded from the allocation received from Scottish Government.
- Strategic Reserve Fund Capital Improvement Programme, to be funded from the allocation of £118,600 per annum within the approved capital programme.

**8.5.** That powers be delegated to the Interim Executive Director of Environmental, Property and IT Services, in consultation with the Head of Finance, to adjust the three-year programmes, referred to at paragraph 8.4 above, as variations arose in order to maximise use of the annual budget allocations.

## **9. Plant and Vehicle Replacement Programme**

Under section 50A(4) of the Local Government (Scotland) Act 1973, the public had been excluded from the meeting for this item on the grounds that it involved the disclosure of exempt information as defined in paragraph 8 of Part 1 of Schedule 7A of the Act.

After consideration of a report by the Interim Executive Director of Environmental, Property and IT Services, copies of which had been circulated, and after hearing a report from the Interim Head of Roads, Fleet and Waste, the Sub-committee:

Noted:

**9.1.** That a multi-year approach to the replacement of plant and vehicles allowed for greater flexibility to vary the timing of individual transactions where constraints and/or pressures emerged.

**9.2.** That issues with the supply chain had resulted in a number of items being carried over from the 2021/22 programme to a total value of £600,000, to be funded by a contribution from the Repairs and Renewals Fund which would be set aside at 31 March 2022 from underspends on the 2021/22 budget.

**9.3.** That opportunities to use green fuels and power Council vehicles from renewable sources continued to be explored.

**9.4.** That officers would continue to review the longer-term approach to fleet purchase across the entire Council fleet, taking advantage of new technology as viable alternatives emerged in the market.

**9.5.** That, in addition to the planned purchases for General Fund services, a total of £573,000 was to be spent on the purchase of vehicles on behalf of Non-General Fund services during 2022/23, the cost of which would be fully reimbursed by the relevant trading service, as detailed in Appendix 1 to the report by the Interim Executive Director of Environmental, Property and IT Services.

On the motion of Councillor Robin W Crichton, seconded by Councillor Andrew Drever, the Sub-committee resolved, in terms of delegated powers:

**9.6.** That the Plant and Vehicle Replacement Programmes for 2022/23, 2023/24 and 2024/25, attached as Appendix 3 to this Minute, be approved.

**9.7.** That powers be delegated to the Interim Executive Director of Environmental, Property and IT Services, in consultation with the Head of Finance, to adjust the programmes, referred to at paragraph 9.6 above, as variations arose and in order to maximise use of the annual capital allocations.

## **10. Request to Purchase Property**

### **Shapinsay Development Trust – Smithy Restaurant and Museum**

Under section 50A(4) of the Local Government (Scotland) Act 1973, the public had been excluded from the meeting for this item on the grounds that it involved the disclosure of exempt information as defined in paragraphs 2, 6 and 9 of Part 1 of Schedule 7A of the Act.

After consideration of a report by the Interim Executive Director of Environmental, Property and IT Services, copies of which had been circulated, and after hearing a report from the Estates Manager, the Sub-committee:

Noted:

**10.1.** That Shapinsay Development Trust had submitted a request to purchase the Smithy Restaurant and Museum.

**10.2.** That Shapinsay Development Trust had consulted with the local community and there was strong community support for taking the Smithy Restaurant and Museum into community ownership.

**10.3.** That the Smithy Restaurant and Museum was currently leased to Shapinsay Community Council, who fully supported the proposed purchase of the building by Shapinsay Development Trust.

**10.4.** That the community had identified the Smithy Restaurant and Museum as a vital asset to the community and local economy and that ownership would help with sustainability of the community.

**10.5.** That Shapinsay Development Trust had secured funding support from the North Isles Landscape Partnership, Scottish Land Fund and the Council's Community Development Fund, towards the purchase cost and subsequent refurbishment of the Smithy Restaurant and Museum.

**10.6.** That a Community Benefit Assessment had been completed, attached as Appendix 4 and summarised in section 6 of the report by the Interim Executive Director of Environmental, Property and IT Services, which demonstrated that positive outcomes would arise should the Council support the request from Shapinsay Development Trust.

The Sub-committee resolved, in terms of delegated powers:

**10.7.** That the Smithy Restaurant and Museum be sold to Shapinsay Development Trust, on terms and conditions to be determined by the Solicitor to the Council.

**The above constitutes the summary of the Minute in terms of the Local Government (Scotland) Act 1973 section 50C(2) as amended by the Local Government (Access to Information) Act 1985.**

### **11. Request to Purchase Site at Garson Industrial Estate, Stromness**

The Sub-committee noted that this item had been withdrawn.

### **12. Request to Purchase Site at Garson Industrial Estate, Stromness**

Under section 50A(4) of the Local Government (Scotland) Act 1973, the public had been excluded from the meeting for this item on the grounds that it involved the disclosure of exempt information as defined in paragraphs 2, 6 and 9 of Part 1 of Schedule 7A of the Act.

After consideration of a joint report by the Interim Executive Director of Environmental, Property and IT Services and the Interim Executive Director of Finance, Regulatory, Marine and Transportation Services, copies of which had been circulated, and after hearing a report from the Estates Manager, the Sub-committee:

Resolved, in terms of delegated powers, what action should be taken with regard to a request to purchase a site at Garson Industrial Estate ,Stromness.

**The above constitutes the summary of the Minute in terms of the Local Government (Scotland) Act 1973 section 50C(2) as amended by the Local Government (Access to Information) Act 1985.**

### **13. Conclusion of Meeting**

At 11:49 the Chair declared the meeting concluded.

Signed: W Leslie Manson.

## Information Technology Replacement Programme 2022/23

Asset Group	Project	Reason.	Sub Total.	Total.
<b>Datacentre Replacement</b>	Server Room Replacement	Replacement of Server and Network Room Equipment including UPS (backup power), Remote Management, Monitoring and Access Controls.	£20,000	<b>£20,000</b>
<b>Server Replacements</b>	Replacement of servers that are end-of-life.	Replacement of the servers that are at end of operational lifetime and reaching or beyond vendor support. There is an increased number likely to require replacement in financial year 22/23	£30,000	<b>£55,000</b>
	Replacement of Storage and Backup Infrastructure	Replacement of storage that is approaching capacity and enhance the resilience of data backups. This will include immutable storage devices	£25,000	
<b>Local Area Network Replacement</b>	Wi-Fi Refresh	Renew and improve Wi-Fi systems to maintain capacity and currency of support, replacing end of life equipment.	£50,000	<b>£85,000</b>
	Replacement of Network Switches	Replacement of Network Switches that are end of support. Ensuring devices are in current support is an essential objective in maintaining Public Sector Network Accreditation in line with the Public Sector Action Plan	£35,000	
<b>Security Gateways</b>	Proxy/Firewall Replacements	There are none forecast as requiring replacement in this year.	£0	<b>£0</b>
<b>Wide Area Network Replacement</b>	Replacement of End of Life and Poor Performing Radio Wireless and Microwave Mast Equipment	There are none forecast as requiring replacement in this year.	£0	<b>£0</b>
<b>Device Replacement</b>	Replacement of end User Devices (Corporate).	To replace end of life end-user devices in Council Offices. This will fund approx. 120 devices from an asset base of ca 1200 devices.	£70,000	<b>£230,000</b>
	Replacement of end User Devices (Schools).	To replace end of life end-user devices in Schools. This will fund approx. 275 devices across 22 schools from an asset base of ca 3000 devices.	£160,000	
Other	Failures and Emergency Replacements of Capital Equipment.	Allocation to replace failures not covered by repairs, and any systems that fail security audit requirements. Particularly WAN wireless	£30,000	<b>£30,000</b>
			<b>Total</b>	<b>£420,000.</b>

## Information Technology Indicative Programme 2023/24

Asset Group	Project	Reason.	Sub Total.	Total.
<b>Datacentre Replacement</b>	Server Room Replacement	Replacement of Server and Network Room Equipment including UPS (backup power), Remote Management, Monitoring and Access Controls.	£20,000	<b>£20,000</b>
<b>Server Replacements</b>	Replacement of servers that are end-of-life.	Replacement of the servers that are at end of operational lifetime and reaching or beyond vendor support.	£15,000	<b>£25,000</b>
	Replacement of Storage and Backup Infrastructure	Replacement of storage that is approaching capacity and enhance the resilience of data backups. This will include immutable storage devices	£10,000	
<b>Local Area Network Replacement</b>	Wi-Fi Modernisation	Renew and improve Wi-Fi systems to maintain capacity and currency of support, replacing end of life equipment including the introduction of 6 <sup>th</sup> generation WiFi 6 services	£50,000	<b>£85,000</b>
	Replacement of Network Switches	Replacement of Network Switches that are end of support. Ensuring devices are in current support is an essential objective in maintaining Public Sector Network Accreditation in line with the Public Sector Action Plan	£35,000	
<b>Security Gateways</b>	Proxy/Firewall Replacements	There are none forecast as requiring replacement in this year.	£0	<b>£0</b>
<b>Wide Area Network Replacement</b>	Replacement of End of Life and Poor Performing Radio Wireless and Microwave Mast Equipment	To replace core WAN WIFI equipment to ensure connectivity between our main mast sites and care homes.	£30,000	<b>£30,000</b>
<b>Device Replacement</b>	Replacement of end User Devices (Corporate).	To replace end of life end-user devices in Council Offices. This will fund approx. 120 devices from an asset base of ca 1200 devices.	£70,000	<b>£230,000</b>
	Replacement of end User Devices (Schools).	To replace end of life end-user devices in Schools. This will fund approx. 275 devices across 22 schools from an asset base of ca 3000 devices.	£160,000	
Other	Failures and Emergency Replacements of Capital Equipment.	Allocation to replace failures not covered by repairs, and any systems that fail security audit requirements. Particularly WAN wireless	£30,000	<b>£30,000</b>
			<b>Total</b>	<b>£420,000.</b>

Appendix 2.

## **Corporate Asset Maintenance and Improvement Programmes**

Resolved that, under section 50A(4) of the Local Government (Scotland) Act 1973, the public were excluded from the meeting for this item on the grounds that it involved the disclosure of exempt information as defined in paragraph 9 of Part I of Schedule 7A of the Act.

Programmes for 2022/23, together with Provisional Programmes for 2023/24 and 2024/25 in respect of the following:

- Pages 1995 to 2002 – General Fund – Revenue Repairs and Maintenance Programme.
- Pages 2003 to 2055 – Strategic Reserve Fund – Revenue Repairs and Maintenance Programme.
- Pages 2006 to 2013 – General Fund – Capital Improvement Programme.
- Page 2014 – Strategic Reserve Fund – Capital Improvement Programme.

**This constitutes a summary of the Appendix in terms of the Local Government (Scotland) Act 1973 section 50C(2) as amended by the Local Government (Access to Information) Act 1985.**

### **Local Government (Scotland) Act 1973 – Schedule 7A**

#### **Access to Information: Descriptions of Exempt Information**

Paragraph 9. Any terms proposed or to be proposed by or to the authority in the course of negotiations for a contract for the acquisition or disposal of property or the supply of goods or services.



Appendix 3.

## **Plant and Vehicle Replacement Programme**

Pages 2015 to 2018.

Resolved that, under section 50A(4) of the Local Government (Scotland) Act 1973, the public were excluded from the meeting for this item on the grounds that it involved the disclosure of exempt information as defined in paragraph 8 of Part I of Schedule 7A of the Act.

**This constitutes a summary of the Appendix in terms of the Local Government (Scotland) Act 1973 section 50C(2) as amended by the Local Government (Access to Information) Act 1985.**

### **Local Government (Scotland) Act 1973 – Schedule 7A**

#### **Access to Information: Descriptions of Exempt Information**

Paragraph 8.       The amount of any expenditure proposed to be incurred by the authority under any particular contract for the acquisition of property or the supply of goods or services.

## Minute

### Pension Fund Sub-committee, together with Pension Board

Wednesday, 23 February 2022, 14:00.

Microsoft Teams.



## Present

### Pension Fund Sub-committee:

Councillors W Leslie Manson, Alexander G Cowie, Barbara Foulkes, Steven B Heddle, Rachael A King, Stephen Sankey and James W Stockan.

### Pension Board:

#### Employer Representatives:

Councillors J Harvey Johnston, Owen Tierney and Duncan A Tullock, Orkney Islands Council.

#### Trade Union Representatives:

Karen Kent (Unison) and Eileen Swanney (Unison).

## Clerk

- Sandra Craigie, Committees Officer.

## In Attendance

- Colin Kemp, Interim Head of Finance.
- Shonagh Merriman, Interim Corporate Finance Senior Manager.
- Bryan Hay, Payroll and Pensions Manager (for Items 1 to 6).
- Paul Maxton, Solicitor.

### Audit Scotland:

- Colin Morrison, Senior Auditor.

## Not Present

### Pension Board:

#### Trade Union Representatives:

- Eoin Miller (Unite).
- Mark Vincent (GMB).

## Declarations of Interest

- No declarations of interest were intimated.

## **Chair**

- Councillor W Leslie Manson.

### **1. Form of Voting**

The Sub-committee resolved that, should a vote be required in respect of the matters to be considered at this meeting, notwithstanding Standing Order 21.4, the form of voting should be by calling the roll (recorded vote).

### **2. Disclosure of Exempt Information**

The Sub-committee noted the proposal that the public be excluded from the meeting for consideration of Items 8 and 9 as the business to be discussed involved the potential disclosure of exempt information of the classes described in the relevant paragraphs of Part 1 of Schedule 7A of the Local Government (Scotland) Act 1973 as amended.

### **3. Revenue Expenditure Monitoring**

After consideration of a report by the Head of Finance, copies of which had been circulated, the Sub-committee:

Noted:

**3.1.** The revenue financial summary statement in respect of service areas for which the Pension Fund Sub-committee was responsible, for the period 1 April to 31 December 2021, attached as Annex 1 to the report by the Head of Finance, indicating a budget surplus position of £30,068,600.

**3.2.** The revenue financial detail by service area statement in respect of service areas for which the Pension Fund Sub-committee was responsible, for the period 1 April to 31 December 2021, attached as Annex 2 to the report by the Head of Finance.

The Sub-committee scrutinised:

**3.3.** The explanations given and actions proposed in respect of significant budget variances, as outlined in the Budget Action Plan, attached as Annex 3 to the report by the Head of Finance, and obtained assurance that action was being taken with regard to significant budget variances.

### **4. Pension Fund – Draft Budget**

After consideration of a report by the Head of Finance, copies of which had been circulated, the Sub-committee:

Noted the draft revenue budget for the Orkney Islands Council Pension Fund for financial year 2022/23, attached as Annex 1 to the report by the Head of Finance, which formed part of the assumptions in the overall budget setting process considered by the Policy and Resources Committee on 22 February 2022.

## **5. Pension Fund Training**

After consideration of a report by the Head of Finance, copies of which had been circulated, and after hearing a report from the Interim Corporate Finance Senior Manager, the Sub-committee:

Noted:

**5.1.** Progress made over the 12-month period to 31 December 2021 in relation to meeting the training needs of members of the Pension Fund Sub-committee and the Pension Board, against core areas of Public Sector Pensions Finance Knowledge and Skills Framework, attached as Appendix 1 to the report by the Head of Finance.

**5.2.** That, over the 12-month period to 31 December 2021, a total of 27 hours of training was offered to members of the Pension Fund Sub-committee and the Pension Board.

**5.3.** That all members of the Pension Fund Sub-committee, together with seven of the eight members of the Pension Board, had, over the 12-month period to 31 December 2021, achieved the minimum requirement of participation in at least one training event, or equivalent to five hours training.

**5.4.** That the member of the Pension Board who had not achieved the minimum requirement for training was a union representative and had cited work pressure as making it difficult to attend training events.

The Sub-committee resolved, in terms of delegated powers:

**5.5.** That the Annual Training Plan for 2022 for members of the Pension Fund Sub-committee and the Pension Board, attached as Appendix 1 to this Minute, be approved.

## **6. Review of Pension Fund Risk Register**

After consideration of a report by the Head of Finance, copies of which had been circulated, and after hearing a report from the Interim Corporate Finance Senior Manager, the Sub-committee:

Resolved, in terms of delegated powers, that the updated Risk Register relating to the Orkney Islands Council Pension Fund, attached as Appendix 2 to this Minute, be approved.

## **7. Exclusion of the Public**

On the motion of Councillor W Leslie Manson, seconded by Councillor James W Stockan, the Sub-committee resolved that the public be excluded for the remainder of the meeting, as the business to be considered involved the disclosure of exempt information of the classes described in Part 1 of Schedule 7A of the Local Government (Scotland) Act 1973 as amended.

Karen Kent left the meeting at this point.

## **8. Statement of Managed Pension Funds**

Under section 50A(4) of the Local Government (Scotland) Act 1973, the public had been excluded from the meeting for this item on the grounds that it involved the disclosure of exempt information as defined in paragraph 6 of Part 1 of Schedule 7A of the Act.

After consideration of a report by the Head of Finance, copies of which had been circulated, and after hearing a report from the Interim Corporate Finance Senior Manager, the Sub-committee:

Noted:

**8.1.** The investment monitoring report for the Pension Fund produced by Hymans Robertson, the Council's appointed investment advisor, attached as Appendix 1 to the report by the Head of Finance, relating to the performance of managed funds for the quarter to 31 December 2021.

**8.2.** That the Pension Fund investments returned a gain of £9,100,000, or 1.4% over the quarter to 31 December 2021, which was 2.9% behind benchmark and was considered poor.

**8.3.** That the value of the Pension Fund had increased by 8.4% over the 12-month period to 31 December 2021, which was considered good in absolute terms but was 4.0% behind target over that period.

**8.4.** That an average return of 11.6% per annum for the Pension Fund remained 2.1% ahead of the target over the five-year period.

**8.5.** The Governance Summary extracted from Baillie Gifford's performance report for the quarter ending 31 December 2021, attached as Appendix 2 to the report by the Head of Finance.

**8.6.** The Corporate Governance Summary extracted from Legal and General's investment report for the quarter ending 31 December 2021, attached as Appendix 3 to the report by the Head of Finance.

## **9. Review of Investment Strategy**

Under section 50A(4) of the Local Government (Scotland) Act 1973, the public had been excluded from the meeting for this item on the grounds that it involved the disclosure of exempt information as defined in paragraphs 6 and 9 of Part 1 of Schedule 7A of the Act.

After consideration of a report by the Head of Finance, copies of which had been circulated, the Sub-committee:

Resolved, in terms of delegated powers, what action should be taken with regard to a review of the Investment Strategy of the Pension Fund.

**The above constitutes the summary of the Minute in terms of the Local Government (Scotland) Act 1973 section 50C(2) as amended by the Local Government (Access to Information) Act 1985.**

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Karen Kent rejoined the meeting at this point.

## **10. Conclusion of Meeting**

At 15:30 the Chair declared the meeting concluded.

Signed: W Leslie Manson.



# ORKNEY

## ISLANDS COUNCIL

# Pension Fund Training Plan

## 2022

### 1. Introduction

The Orkney Islands Council Pension Fund is committed to providing training to those involved in the governance of the Fund to ensure that they have the skills and understanding required to carry out their stewardship role. This includes regular events to cover the latest developments in the Local Government Pension Scheme, investment strategy and performance monitoring. In April 2015, the Pension Fund Sub-committee adopted the CIPFA Code of Practice on Public Sector Pensions Finance Knowledge and Skills.

It is important that members of both the Pension Fund Sub-committee and the Pension Board receive appropriate training to allow them to carry out their roles effectively

This training plan sets out how levels of understanding will be assessed, and how the knowledge and skills requirement and other regulatory requirements will be supported through training events over the next financial year.

### 2. Knowledge and Skills Framework

There are six areas of knowledge and skills that have been identified as the core requirements for those with decision making responsibility for Local Government Pension Scheme funds. They are:

- Pensions legislative and governance context.
- Pensions accounting and auditing standards.
- Financial services procurement and relationship management.
- Investment performance and risk management.
- Financial markets and products knowledge.
- Actuarial methods, standards and practices.



Members of the Pension Fund Sub-committee and the Pension Board are expected to have a collective understanding and Officers are expected to have detailed understanding of these areas of knowledge and skills.

### **3. Pension Board Specific Requirements**

Members of the Pension Board are required to have the capacity to take on the role of assisting the Scheme Manager in relation to compliance with scheme regulations and the requirements of the Pensions Regulator.

In addition, in accordance with Section 248A of the Pensions Act 2004 which was introduced to make provision relating to pensions and financial planning for retirement, it is expected that every individual who is a member of a Local Pension Board will receive training, and as a result:

- Be conversant with the regulations governing the Local Government Pension Scheme, such as the Transitional Regulations and the Investment Regulations.
- Be conversant with any policy document relating to administration of the Fund.
- Have knowledge and understanding of the law relating to pensions.
- Have knowledge and understanding of such other matters as may be prescribed.

### **4. Committee and Pension Board Training**

Training for the Pension Fund Sub-committee and the Pension Board during 2022 will continue to focus on the following areas:

#### **Knowledge and Skills Framework**

All training will focus on maintaining the six areas of knowledge and skills, with any gaps in knowledge identified throughout the past year and including the periodic use of member's self-assessment returns where appropriate.

#### **Training Events**

An annual pension's group training event will be provided for all members to attend. In addition, to that, expressions of interest will also be sought from members to attend relevant industry events, including conferences and seminars throughout the year. In the event that there is more interest to attend an event than places available, a decision to determine who should get approval to attend will be made by the Head of Finance, in consultation with the Chair of the Pension Fund Sub-committee, will determine appropriate representation and approve attendance.

#### **Informative Review Presentations**

Members will receive regular reports on the performance of the administration and investment functions throughout the year. In addition to this Members will be invited to attend informative review presentations by external advisors including the Pension Fund's appointed actuaries, investment advisors and fund managers.

## Electronic Resources

Members are invited to access training information available on the Pension Regulator's website setting out the governance requirements of the local government pension scheme, including the respective roles of the Pension Fund Sub-committee and Pension Board at the following link:

<https://trusteetoolkit.thepensionsregulator.gov.uk/login/index.php>

Additionally, resources from previous training events have been made available to Councillors on their Council electronic device under "Training". Training materials will be added to this folder going forward as and when events occur.

## 5. Other Training

Where gaps in individual members' knowledge have been identified that will not be met by the core training described above, then Members should approach Officers in the first instance with a view to addressing those needs.

Specific training can also be provided for the Chair of the Pension Fund Sub-committee and Pension Board to support them in their role, if required.

## 6. Officer Training

It is important that Officers have the required training to carry out the tasks of managing the Fund's investments and administering the payment of benefits. The knowledge and skills required of staff are set out in their job descriptions, including any formal qualifications required. Officers should be familiar with the requirements of the CIPFA Code of Practice on Knowledge and Skills and should have knowledge of the six areas of the framework.

Officers will attend relevant professional training events, conferences and seminars during the year to ensure that they remain up-to-date with the latest requirements. In addition, they will be expected to keep up-to-date through use of the internet, and conduct research on relevant issues where required. Individual training plans will be put in place and these will be recorded and reviewed as part of the annual staff appraisal process.

For Officers, there will be a particular focus on the following areas:

**Governance** – Understanding the guidance and regulations in relation to local pension boards and keeping up-to-date with how other Funds are working with their boards, in order that the Pension Board can be supported effectively and add value to the governance of the Fund.

**New Investment Arrangements** – Understanding the implications of how the Financial Conduct Authority will implement the Markets in Financial Instruments Directive (MiFIDII) and what the Fund will need to do to comply.

**New Investment Products** – Keeping up-to-date with what the market is offering, in order to assess the validity of new products for investment by the Fund.

**Accounting Issues** – Keeping up-to-date with the latest CIPFA guidance on the format of the Pension Fund Statement of Accounts and the content of the Annual Report.

**Pensions Admin Regulations** – Understanding the latest guidance and interpretation of changes to LGPS Regulations and their impact on procedures.

**Pensions Admin Systems** - Keeping up-to-date with updates/new releases to the software system Altair, passing training onto all staff.

**Wider Pensions Issues** – Understanding the impact of wider Government reforms to pensions, such as “freedom and choice” on the LGPS.

## **7. Reporting and Compliance**

In line with the CIPFA Code of Practice, a disclosure will be made in the Fund’s Annual Report and Accounts that covers:

- How the Skills and Knowledge framework has been applied.
- What assessment of training needs has been undertaken.
- What training has been delivered against the identified training needs.

# Orkney Islands Council

## Pensions Fund Risk Register



### 1. Objectives

The objectives of the Risk Register are to:-

- identify key risks that could prevent the achievement of the Fund's objectives
- evaluate the significance of the risks;
- identify any mitigating controls;
- identify the owner of each risk; and
- act as a basis by which the risks can be monitored and reported upon.

### 2. Risk Assessment

Identified risks are assessed separately and for each the following is determined:-

- the likelihood of the risk materialising; and
- the impact/potential consequences if it does occur.

### 3. Risk Evaluation

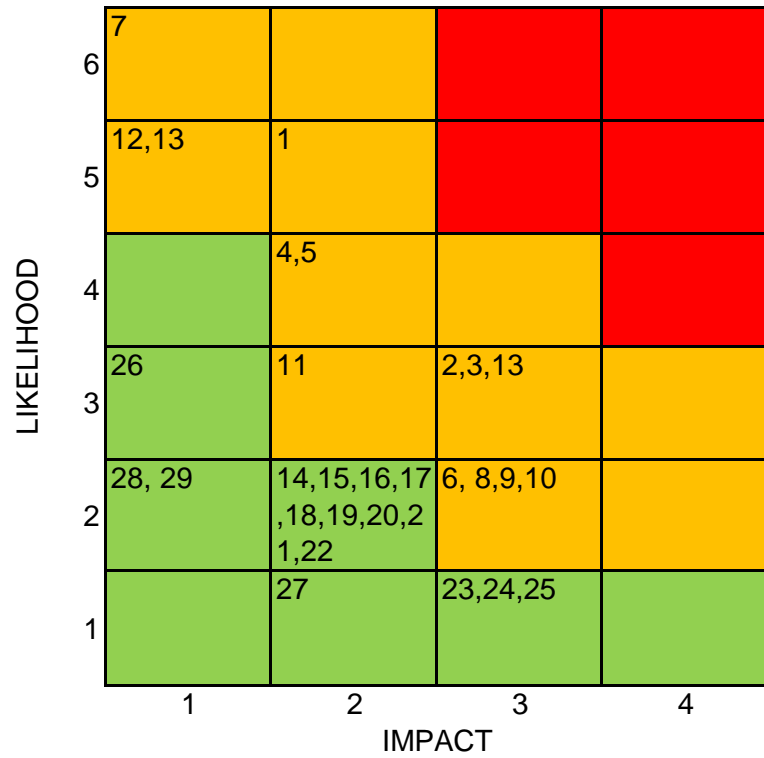
Risks are evaluated on a sliding scale of 1-10 with 10 the highest value i.e. highest likelihood / most severe impact / consequences. The risk evaluation tables overleaf have been used in order to assess specific risks and to introduce a measure of consistency into the risk assessment process. The overall rating for each risk is calculated by multiplying the likelihood value against the impact value to give the total score. The risk rating scores are then used to prioritise the risk rating which is shown in the register itself.

# Risk Evaluation Criteria

The Risk Evaluation Tables: Likelihood	
1	Negligible never happened to the Fund but is theoretically possible
2	Extremely unlikely within the next 3 years, but possible within a 10 year cycle
3	Extremely unlikely within the next 12 months, but possible within a 5 year cycle
4	Feasible within the next 12 months
5	Probable within the next 12 months
6	Confidently expected within the next 12 months

The Risk Evaluation Tables: Impact	
1	Negligible
2	Significant – potential to cause significant damage in the short and medium term without threatening the survival of the Fund
3	Could seriously threaten Fund reputation or weaken its capacity to survive
4	Catastrophic

# Risk Matrix



## Summary and Prioritisation of Pension Fund Risks

Risk Ranking	Risk Theme	Risk	Risk Rating
1	Investment	The ongoing COVID-19 pandemic could have both short-term and long-term impacts on the investment returns of the Fund.	10
2	Investment	Active investment manager under-performance relative to benchmark at aggregate level and/or failure of investment market(s) from economic and political instability etc resulting in possible liquidity/cash flow risk	9
3	Investment	Changes in legislation and other regulatory frameworks, such as pooling and merging of LGPS schemes in Scotland, and the outcome of the consultation into the creation of a National Care Service, may impact adversely on the Fund in terms of funding levels and governance structures.	9
4	Investment	Brexit risks potentially impacting the Funds assets and liabilities	8
5	Operational	COVID-19 Government mitigation measures recommend working from home whenever possible.	8
6	Operational	Business Continuity (Service delivery threats, Insufficient daily backup etc)	6
7	Operational	New pension access reforms, "Freedom and choice", and increase in awareness, may lead to Fund members electing to transfer all or part of their pension entitlement much earlier than projected.	6
8	Operational	Breach of Data Protection Legislation - theft or loss of data.	6
9	Investment	Inefficiencies with the portfolio could result in unintended risks.	6
10	Operational	Failure to produce compliant annual report and accounts within deadline.	6
11	Operational	Recruitment and retention of key staff.	6
12	Investment	Outcome of the McCloud judgement and how it will impact on future liabilities of the Fund.	5
13	Investment	Outcome of the Cost Cap and how it will impact on future contributions.	5
14	Operational	Increased risk of fraud and scams due to the COVID-19 pandemic.	4
15	Operational	Scale of Pension Team could create an over reliance on Key Pension Officers and staff absence being problematic.	4
16	Governance	Committee and Board members have inadequate knowledge and understanding.	4
17	Governance	Funding Strategy is only updated following the tri-ennial actuarial valuation and does not reflect any subsequent regulatory changes, longevity, early retirement patterns, or any pay and price inflation.	4
18	Governance	Lack of communication and budgetary controls between Administering Authority and members of the Pension Fund Sub Committee.	4
19	Investment	Credit risk represents the risk that the counterparty to a transaction or a financial instrument will fail to discharge an obligation	4
20	Operational	Incomplete member records and failure to collect and account for contributions in a timely manner.	4
21	Governance	Decisions influenced by possible conflicts of interest or not in the best interests of stakeholders.	4
22	Operational	Fraud/Theft of Fund assets by internal staff members.	4
23	Governance	Failure to adhere to relevant statutory regulations including updates from LGPS	3
24	Investment	Negligence, default, fraud by investment manager.	3
25	Investment	Failure of Global Custodian.	3

26	Investment	As long-term investors, the Fund believes climate risk has the potential to significantly alter the value of the Fund's investments.	3
27	Operational	Failure to process accurate pension benefit payments, including lump sum payments, in a timely manner.	2
28	Operational	The administration performance measure and targets may no longer be the most appropriate for the fund.	2
29	Operational	Pandemic resulting in closure of facilities'.	2



**Pension Fund - Risk Ranking**

Ranking	Risk	Impact	L	I	Current Risk Rating	Previous Risk Rating	Risk Control Measures	Assigned to	Target Date (priority items)
1	The ongoing COVID-19 pandemic could have both short-term and long-term impacts on the investment returns of the Fund.	Loss of value to the Fund.	5	2	10	10	<ul style="list-style-type: none"> <li>• External investment consultants and actuary are appointed to advise the PFSC.</li> <li>• Diversified long-term investment strategy focused on developed markets and managed by experienced Investment Managers.</li> <li>• Robust governance and investment monitoring framework.</li> <li>• Annual review of mandates. Periodic review of investment structure.</li> </ul>	Head of Finance/ PFSC	Ongoing
2	Active investment manager under-performance relative to benchmark at aggregate level and/or failure of investment market(s) from economic and political instability etc.	<p>Illiquidity or loss of investments.</p> <p>Negative publicity and adverse reporting.</p> <p>Potential loss of interest from any excessive holding of funds.</p>	3	3	9	9	<ul style="list-style-type: none"> <li>• Regular review of Funding Strategy.</li> <li>• Regular review of Investment Strategy in line with the actuarial valuation.</li> <li>• External investment consultants and actuary are appointed to advise the PFSC.</li> <li>• Diversified long-term investment strategy focused on developed markets and managed by experienced Investment Managers.</li> <li>• Market regulation.</li> <li>• Robust governance and investment monitoring framework.</li> <li>• Quarterly monitoring of investment managers performance by external independent advisers and PFSC.</li> </ul>	Head of Finance/ PFSC	Ongoing

**Pension Fund - Risk Ranking**

Ranking	Risk	Impact	L	I	Current Risk Rating	Previous Risk Rating	Risk Control Measures	Assigned to	Target Date (priority items)
3	Changes in legislation and other regulatory frameworks, such as pooling or merging of LGPS schemes in Scotland, and the outcome of the consultation into the creation of a National Care Service, may impact adversely on the Fund in terms of funding levels and governance structures	Loss of investments or control of investments.	3	3	9	9	<ul style="list-style-type: none"> <li>Participation in active CIPFA and Scottish Pension network allow changes and impacts to be identified quickly.</li> <li>Involvement with COSLA discussions on Pensions.</li> <li>Participation in consultation on pooling/merger by the Scheme Advisory Board.</li> <li>Monitoring and highlighting actions and decisions from scheme advisory board.</li> </ul>	Head of Finance/PFSC	Ongoing
4	<p>Brexit risks include the following which could impact the Funds Assets and Liabilities -</p> <ul style="list-style-type: none"> <li>Risk of rising inflation increasing the amount of future pensions paid.</li> <li>Actuarial basis risk of falling gilt yields, which could accelerate rate at which contributions are required to be paid following the next actuarial valuation.</li> </ul>	Loss of value to the Fund.	4	2	8	8	<ul style="list-style-type: none"> <li>Triennial valuation for 2020 will be completed and necessary adjustments made to the investment strategy as required.</li> <li>Performance of the Pension Fund will continue to be monitored quarterly by Hymans Robertson and any recommendations they make on the assets held will be considered by the Pension Board and Sub-Committee.</li> </ul>	Head of Finance/PFSC	Ongoing
5	COVID-19 Government mitigation measures recommend working from home whenever possible.	<p>Changes in working practices have to be developed resulting in some tasks taking a longer time to complete. Information from other pension providers in relation to transfers in and out are being received much later than previously, delaying completion of the transactions.</p> <p>Increased supervisory resource required to monitor and motivate staff in the homeworking environment.</p>	4	2	8	10	<ul style="list-style-type: none"> <li>Management will continue to review processes for performance management.</li> <li>Management will work closely with staff to ensure they are getting the correct level of support to deliver their role in the team.</li> <li>IT systems have been put in place to enable working from home where required.</li> </ul>	Pensions Manager	Ongoing

**Pension Fund - Risk Ranking**

Ranking	Risk	Impact	L	I	Current Risk Rating	Previous Risk Rating	Risk Control Measures	Assigned to	Target Date (priority items)
6	Business Continuity (Service delivery threats, Insufficient daily backup etc)	Temporary loss of ability to provide service to stake holders. Staff downtime, loss of service delivery. Monthly pension payroll to pensioners delayed resulting in possible hardship.	2	3	6	6	<ul style="list-style-type: none"> <li>• Business continuity and disaster recovery plans in place.</li> <li>• Procedures to back-up IT System are fully developed and stored securely.</li> <li>• Contingency arrangements are in place including staff ability to work from home.</li> <li>• Pensions Administration system is now fully operational with established procedures in place.</li> </ul>	IT / Pensions Manager	Ongoing
7	New pension access reforms, "Freedom and choice", and increase in awareness, may lead to Fund members electing to transfer all or part of their pension entitlement much earlier than projected resulting in the potential change in liability profile for the Fund.	Requirement to release large amounts of cash to members. Disinvest current assets in a much more unplanned manner with the potential to disadvantage the Funding position.	6	1	6	6	<ul style="list-style-type: none"> <li>• Management will continue to monitor the amounts being transferred.</li> <li>• Management will notify Hymans Robertson, Actuaries to the Fund, if they feel the level of transfers could impact on the funding position.</li> </ul> Requirement of scheme is for any transfers over £30K to provide evidence that they have sought financial advice from an adviser registered with the FCA.	Pensions Manager	Ongoing
8	Breach of Data Protection Legislation - theft or loss of data.	Audit criticism, legal challenge, reputational damage, financial penalties.	2	3	6	6	<ul style="list-style-type: none"> <li>• Data securely sent/received to/from the fund actuary using a secure internet portal.</li> <li>• Pension Fund adopted internal controls of Administering Authority.</li> <li>• Staff complete the online i-Learn module on Data Protection.</li> </ul>	Pensions Manager /IT/Legal	Ongoing

**Pension Fund - Risk Ranking**

Ranking	Risk	Impact	L	I	Current Risk Rating	Previous Risk Rating	Risk Control Measures	Assigned to	Target Date (priority items)
9	Inefficiencies with the portfolio could result in unintended risks.	Underperformance of investments.	2	3	6	6	<ul style="list-style-type: none"> <li>• Diversified strategic asset allocation policy which is regularly reviewed by the PFSC.</li> <li>• Investment Management Agreement that incentivises the Fund Manager to outperform the benchmark and drive out any inefficiencies.</li> <li>• External independent consultants review the investment performance quarterly.</li> </ul>	Head of Finance/ PFSC	Ongoing
10	Failure to produce compliant annual report and accounts within deadline.	Audit criticism, reputational damage.	2	3	6	6	<ul style="list-style-type: none"> <li>• Agree audit program timeously</li> <li>• Plan timetable annually</li> <li>• Use of qualified staff</li> </ul>	Accounting / Pensions	Ongoing
11	Recruitment and retention of key staff.	Loss of failure of service delivery	3	2	6	4	<ul style="list-style-type: none"> <li>• OIC's policy includes actively encouraging skilled and educated workers to remain on the island.</li> <li>• Existing staff are given the opportunity to gain an appropriate pension qualification.</li> </ul>	Head of Finance Pensions Manager/ HR	Ongoing
12	The outcome of the recent court judgements, including Mcloud and Goodwin, will impact future liabilities of the Fund and increase pressure on contributions depending on the remedy decided by the UK Government to compensate individuals for the difference in treatment since public service pension reforms in 2015 on the grounds of age and gender discrimination.	Increase in employer contribution rates.	5	1	5	5	<ul style="list-style-type: none"> <li>• Hymans Robertson provided an updated actuarial present valuation at the end of financial year 2018-2019 following the Court of Appeal judgement to estimate the impact of the McCloud judgement. A provision was made to recognise this in the Annual Accounts 2018-19.</li> <li>• Once the full implications of the ruling are established officers with assistance from Hymans Robertson will further quantify the impact on the Fund.</li> <li>• The cost cap introduced in 2015 will limit the impact.</li> </ul>	Head of Finance/ PFSC	Ongoing

**Pension Fund - Risk Ranking**

Ranking	Risk	Impact	L	I	Current Risk Rating	Previous Risk Rating	Risk Control Measures	Assigned to	Target Date (priority items)
13	The Cost Cap or Cost Management as it is also known as, is being introduced to the LGPS as a mechanism for sharing funding risk between the employers and members. It will not be fully implemented until the outcome of the Mcloud judgement is known but could lead to scheme benefits changing and either employers or employees paying higher contributions.	Increase in employer contribution rates.	5	1	5	5	<ul style="list-style-type: none"> <li>Once the full implications of the cost cap are established officers, with assistance from Hymans Robertson, will further quantify the impact on the Fund.</li> <li>Good investment returns protect the Fund in the short term and the impact will be further reviewed in the interim valuations each year and at the next triennial valuation in 2023.</li> </ul>	Head of Finance/ PFSC	Ongoing
14	Increased risk of fraud and scams due to the COVID-19 pandemic.	<p>Changes in working practices at outside bodies has made it harder to contact people by phone, with many offices now closed to staff.</p> <p>Dependence on emails as a form of communication could be exploited by potential fraudsters.</p> <p>Home working by staff can result in less discussion about transactions that are taking place.</p>	2	2	4	8	<ul style="list-style-type: none"> <li>New Pension Regulator provisions in place from November 2021 to strengthen the checks that take place prior to any transfers being made.</li> <li>Management will continue to monitor closely the checks that have taken place prior to any transfers out being made.</li> <li>Management will work closely with staff to ensure they are getting the correct level of support to deliver their role in the team.</li> <li>Staff will be made aware of any potential scams that could take place. This is being further enhanced by the development of a new on-line training course which will be mandatory for all Finance staff.</li> </ul>	Pensions Manager	Ongoing
15	Scale of Pension Team could create an over reliance on Key Pension Officers and staff absence being problematic.	<p>Failure to process payments on time or correctly leading to possible delays or overpayments.</p> <p>Loss or failure of service delivery.</p>	2	2	4	4	<ul style="list-style-type: none"> <li>Checklists</li> <li>Pensions Manager focused on mentoring and knowledge sharing</li> <li>Front line management course</li> <li>Staff complement in the Pensions section has been increased</li> </ul>	Head of Finance Pensions Manager/ HR	Ongoing

**Pension Fund - Risk Ranking**

Ranking	Risk	Impact	L	I	Current Risk Rating	Previous Risk Rating	Risk Control Measures	Assigned to	Target Date (priority items)
16	Committee and Board members have inadequate knowledge and understanding.	Qualified audit report; potential bad publicity; members loss of confidence in officers' abilities; excessive pressure on officers; loss of income to the fund; loss of stakeholder confidence in the ability of the administering authority; potential increase in costs to fund employers.	2	2	4	4	<ul style="list-style-type: none"> <li>• Training policy statement in line with the Code of Practice on Public Sector Pensions Finance Knowledge and Skills.</li> <li>• A training register maintains a record of all training provided and attended.</li> <li>• A training plan is agreed annually.</li> </ul>	Head of Finance	Ongoing
17	Funding Strategy is only updated following the tri-ennial actuarial valuation and does not reflect any subsequent regulatory changes, longevity, early retirement patterns, or any pay and price inflation.	Increase in employers contribution rates. Increase in liabilities leading to increase in employer contribution rates. Pressure on cash flow and funding equation. Pressure on cash flow and funding and equation.	2	2	4	4	<ul style="list-style-type: none"> <li>• The focus of the actuarial valuation process on real returns, net of prices and pay increases. Valuation monitoring by annual Navigator reports are intended to act as an early warning system.</li> <li>• Expert Actuaries appointed to monitor and forecast accordingly.</li> </ul>	PFSC	Ongoing
18	Lack of communication and budgetary controls between Administering Authority and members of the Pension Fund Sub Committee.	Unexpected variances over budget headings; members' loss of confidence in officers' abilities; loss of income to the fund; loss of stakeholder confidence in the ability of the administering authority; potential increase in costs to fund employers.	2	2	4	4	<ul style="list-style-type: none"> <li>• Annual service budget agreed in advance of financial year.</li> <li>• Monthly budget monitoring reports (BMR).</li> <li>• Quarterly budget reports to the PFSC.</li> </ul>	Pensions Manager PFSC Head Of Finance	Ongoing
19	Credit risk represents the risk that the counterparty to a transaction or a financial instrument will fail to discharge an obligation	Financial loss borne by the Pension Fund	2	2	4	4	<ul style="list-style-type: none"> <li>• The Council's Annual Treasury Management Strategy sets out the Fund's approach to credit risk for internally managed funds. Deposits are only made with banks and financial institutions if they are independently rated and meet the OIC's credit criteria. The strategy also sets limits as to the maximum percentage of deposit with any one class of financial assets.</li> </ul>	Head of Finance	Ongoing

**Pension Fund - Risk Ranking**

Ranking	Risk	Impact	L	I	Current Risk Rating	Previous Risk Rating	Risk Control Measures	Assigned to	Target Date (priority items)
20	Incomplete member records and failure to carry out statutory functions including submission of member data and contributions to the Pension Fund in a timely manner.	Adverse impact on cash flow position; delays in closure of year end accounts; employers forced to leave the scheme. Possible adverse audit opinions, possible unacceptable delays in settlements or overpayments. Missing, incomplete records on pensions administration system undermines service delivery and causes difficulties in establishing correct benefits at individual level and liabilities at whole Fund level.	2	2	4	4	<ul style="list-style-type: none"> <li>• Monitor membership on triennial actuarial valuation.</li> <li>• Admitted bodies to notify of significant structural changes.</li> <li>• Vetting on any new or prospective employers before entering into an admission agreement.</li> <li>• Senior Officers liaise closely with employers</li> <li>• Contribution monitoring procedures</li> <li>• Monthly monitoring of receipts and escalation procedures in place.</li> <li>• Annual contribution return certificates.</li> </ul>	Pensions Manager/ Internal Audit	Ongoing
21	Decisions influenced by possible conflicts of interest or not in the best interests of stakeholders.	Limited discretion for interested parties or stakeholders to influence decisions. The pension fund is regulated by the statutory provisions of the LGPS.	2	2	4	4	<ul style="list-style-type: none"> <li>• Training provided.</li> <li>• Potential conflicts of interest are declared at the beginning of each committee meeting.</li> <li>• Register of Interests for members to the PFSC and PB is in place and reviewed annually.</li> </ul>	Head of Finance	Ongoing

**Pension Fund - Governance Risks**

Ranking	Risk	Impact	L	I	Current Risk Rating	Previous Risk Rating	Risk Control Measures	Assigned to	Target Date (priority items)
16	Committee and Board members have inadequate knowledge and understanding.	Qualified audit report; potential bad publicity; members loss of confidence in officers' abilities; excessive pressure on officers; loss of income to the fund; loss of stakeholder confidence in the ability of the administering authority; potential increase in costs to fund employers.	2	2	4	4	<ul style="list-style-type: none"> <li>• Training policy statement in line with the Code of Practice on Public Sector Pensions Finance Knowledge and Skills.</li> <li>• A training register maintains a record of all training provided and attended.</li> <li>• A training plan is agreed annually.</li> </ul>	Head of Finance	Ongoing
17	Funding Strategy is only updated following the tri-ennial actuarial valuation and does not reflect any subsequent regulatory changes, longevity, early retirement patterns, or any pay and price inflation.	Increase in employers contribution rates. Increase in liabilities leading to increase in employer contribution rates. Pressure on cash flow and funding equation. Pressure on cash flow and funding and equation.	2	2	4	4	<ul style="list-style-type: none"> <li>• The focus of the actuarial valuation process on real returns, net of prices and pay increases. Valuation monitoring by annual Navigator reports are intended to act as an early warning system.</li> <li>• Expert Actuaries appointed to monitor and forecast accordingly.</li> </ul>	PFSC	Ongoing
18	Lack of communication and budgetary controls between Administering Authority and members of the Pension Fund Sub Committee.	Unexpected variances over budget headings; members' loss of confidence in officers' abilities; loss of income to the fund; loss of stakeholder confidence in the ability of the administering authority; potential increase in costs to fund employers.	2	2	4	4	<ul style="list-style-type: none"> <li>• Annual service budget agreed in advance of financial year.</li> <li>• Monthly budget monitoring reports (BMR).</li> <li>• Quarterly budget reports to the PFSC.</li> </ul>	Pensions Manager PFSC Head Of Finance	Ongoing
21	Decisions influenced by possible conflicts of interest or not in the best interests of stakeholders.	Limited discretion for interested parties or stakeholders to influence decisions. The pension fund is regulated by the statutory provisions of the LGPS.	2	2	4	4	<ul style="list-style-type: none"> <li>• Training provided.</li> <li>• Potential conflicts of interest are declared at the beginning of each committee meeting.</li> <li>• Register of Interests for members to the PFSC and PB is in place and reviewed annually.</li> </ul>	Head of Finance	Ongoing



**Pension Fund - Operational Risks**

Ranking	Risk	Impact	L	I	Current Risk Rating	Previous Risk Rating	Risk Control Measures	Assigned to	Target Date (priority items)
5	COVID-19 Government mitigation measures recommend working from home whenever possible.	Changes in working practices have to be developed resulting in some tasks taking a longer time to complete. Information from other pension providers in relation to transfers in and out are being received much later than previously, delaying completion of the transactions. Increased supervisory resource required to monitor and motivate staff in the homeworking environment.	4	2	8	10	<ul style="list-style-type: none"> <li>• Management will continue to review processes for performance management.</li> <li>• Management will work closely with staff to ensure they are getting the correct level of support to deliver their role in the team.</li> <li>• IT systems have been put in place to enable working from home where required.</li> </ul>	Pensions Manager	Ongoing
6	Business Continuity (Service delivery threats, Insufficient daily backup etc)	Temporary loss of ability to provide service to stake holders. Staff downtime, loss of service delivery. Monthly pension payroll to pensioners delayed resulting in possible hardship.	2	3	6	6	<ul style="list-style-type: none"> <li>• Business continuity and disaster recovery plans in place.</li> <li>• Procedures to back-up IT System are fully developed and stored securely.</li> <li>• Contingency arrangements are in place including staff ability to work from home.</li> <li>• Pensions Administration system is now fully operational with established procedures in place.</li> </ul>	IT / Pensions Manager	Ongoing
7	New pension access reforms, "Freedom and choice", and increase in awareness, may lead to Fund members electing to transfer all or part of their pension entitlement much earlier than projected resulting in the potential change in liability profile for the Fund.	Requirement to release large amounts of cash to members. Disinvest current assets in a much more unplanned manner with the potential to disadvantage the Funding position.	6	1	6	6	<ul style="list-style-type: none"> <li>• Management will continue to monitor the amounts being transferred.</li> <li>• Management will notify Hymans Robertson, Actuaries to the Fund, if they feel the level of transfers could impact on the funding position.</li> </ul> Requirement of scheme for any transfers over £30K to provide evidence that they have sought financial advice from an adviser registered with the FCA.	Pensions Manager	Ongoing

2042

**Pension Fund - Operational Risks**

Ranking	Risk	Impact	L	I	Current Risk Rating	Previous Risk Rating	Risk Control Measures	Assigned to	Target Date (priority items)
8	Breach of Data Protection Legislation - theft or loss of data.	Audit criticism, legal challenge, reputational damage, financial penalties.	2	3	6	6	<ul style="list-style-type: none"> <li>Data securely sent/received to/from the fund actuary using a secure internet portal.</li> <li>Pension Fund adopted internal controls of Administering Authority.</li> <li>Staff complete the online i-Learn module on Data Protection.</li> </ul>	Pensions Manager /IT/Legal	Ongoing
10	Failure to produce compliant annual report and accounts within deadline.	Audit criticism, reputational damage.	2	3	6	6	<ul style="list-style-type: none"> <li>Agree audit program timeously</li> <li>Plan timetable annually</li> <li>Use of qualified staff</li> </ul>	Accounting / Pensions	Ongoing
11	Recruitment and retention of key staff.	Loss of failure of service delivery	3	2	6	4	<ul style="list-style-type: none"> <li>OIC's policy includes actively encouraging skilled and educated workers to remain on the island.</li> <li>Existing staff are given the opportunity to gain an appropriate pension qualification.</li> </ul>	Head of Finance Pensions Manager/HR	Ongoing
14	Increased risk of fraud and scams due to the COVID-19 pandemic.	Changes in working practices at outside bodies has made it harder to contact people by phone, with many offices now closed to staff. Dependence on emails as a form of communication could be exploited by potential fraudsters. Home working by staff can result in less discussion about transactions that are taking place.	2	2	4	8	<ul style="list-style-type: none"> <li>New Pension Regulator provisions in place from November 2021 to strengthen the checks that take place prior to any transfers being made.</li> <li>Management will continue to monitor closely the checks that have taken place prior to any transfers out being made.</li> <li>Management will work closely with staff to ensure they are getting the correct level of support to deliver their role in the team.</li> <li>Staff will be made aware of any potential scams that could take place. This is being further enhanced by the development of a new on-line training course which will be mandatory for all Finance staff.</li> </ul>	Pensions Manager	Ongoing

2023

**Pension Fund - Operational Risks**

Ranking	Risk	Impact	L	I	Current Risk Rating	Previous Risk Rating	Risk Control Measures	Assigned to	Target Date (priority items)
15	Scale of Pension Team could create an over reliance on Key Pension Officers and staff absence being problematic.	Failure to process payments on time or correctly leading to possible delays or overpayments. Loss or failure of service delivery.	2	2	4	4	<ul style="list-style-type: none"> <li>• Checklists</li> <li>• Pensions Manager focused on mentoring and knowledge sharing</li> <li>• Front line management course</li> <li>• Staff complement in the Pensions section has been increased</li> </ul>	Head of Finance Pensions Manager/ HR	Ongoing
20	Incomplete member records and failure to carry out statutory functions including submission of member data and contributions to the Pension Fund in a timely manner.	Adverse impact on cash flow position; delays in closure of year end accounts; employers forced to leave the scheme. Possible adverse audit opinions, possible unacceptable delays in settlements or overpayments. Missing, incomplete records on pensions administration system undermines service delivery and causes difficulties in establishing correct benefits at individual level and liabilities at whole Fund level.	2	2	4	4	<ul style="list-style-type: none"> <li>• Monitor membership on triennial actuarial valuation.</li> <li>• Admitted bodies to notify of significant structural changes.</li> <li>• Vetting on any new or prospective employers before entering into an admission agreement.</li> <li>• Senior Officers liaise closely with employers</li> <li>• Contribution monitoring procedures</li> <li>• Monthly monitoring of receipts and escalation procedures in place.</li> <li>• Annual contribution return certificates.</li> </ul>	Pensions Manager/ Internal Audit	Ongoing
22	Fraud/Theft of Fund assets by internal staff members.	Overpayment, unauthorised payment, system corruption, audit criticism, reputational damage	2	2	4	4	<ul style="list-style-type: none"> <li>• Established systems of internal controls and security are in place</li> <li>• Segregation of duties</li> <li>• Supervisory checking of all calculations</li> <li>• Internal audit and monitoring arrangements</li> </ul>	Head of Finance Pensions Manager/ Internal Audit	Ongoing
27	Failure to process accurate pension benefit payments, including lump sum payments, in a timely manner.	Possible unacceptable delays in making full payments to pensioners, possible overpayment of monies.	1	2	2	2	<ul style="list-style-type: none"> <li>• Segregation of duties</li> <li>• Regular checks by Internal Audit</li> <li>• Subscription to tracing service for deceased pensioners</li> </ul>	Pensions Manager/ Internal Audit	Ongoing

2024

**Pension Fund - Operational Risks**

Ranking	Risk	Impact	L	I	Current Risk Rating	Previous Risk Rating	Risk Control Measures	Assigned to	Target Date (priority items)
28	The administration performance measures and targets may no longer be the most appropriate for the fund.	Poor performance of the administration of the Pension Fund.	2	1	2	2	<ul style="list-style-type: none"> <li>• Performance is measured and reported to the Pension Board twice yearly.</li> <li>• Increased staffing within the Pensions Section has resulted in more targets being met.</li> <li>• Regular reviews of performance measures will take place.</li> </ul>	Pensions Manager	Ongoing

**Pension Fund - Investment Risks**



Ranking	Risk	Impact	L	I	Current Risk Rating	Previous Risk Rating	Risk Control Measures	Assigned to	Target Date (priority items)
1	The ongoing COVID-19 pandemic could have both short-term and long-term impacts on the investment returns of the Fund.	Loss of value to the Fund.	5	2	10	10	<ul style="list-style-type: none"> <li>External investment consultants and actuary are appointed to advise the PFSC.</li> <li>Diversified long-term investment strategy focused on developed markets and managed by experienced Investment Managers.</li> <li>Robust governance and investment monitoring framework.</li> <li>Annual review of mandates. Periodic review of investment structure.</li> </ul>	Head of Finance/PFSC	Ongoing
2	Active investment manager under-performance relative to benchmark at aggregate level and/or failure of investment market(s) from economic and political instability etc.	Illiquidity or loss of investments. Negative publicity and adverse reporting. Potential loss of interest from any excessive holding of funds.	3	3	9	9	<ul style="list-style-type: none"> <li>Regular review of Funding Strategy.</li> <li>Regular review of Investment Strategy in line with the actuarial valuation.</li> <li>External investment consultants and actuary are appointed to advise the PFSC.</li> <li>Diversified long-term investment strategy focused on developed markets and managed by experienced Investment Managers.</li> <li>Market regulation.</li> <li>Robust governance and investment monitoring framework.</li> <li>Quarterly monitoring of investment managers performance by external independent advisers and PFSC.</li> </ul>	Head of Finance/PFSC	Ongoing

2046

**Pension Fund - Investment Risks**



Ranking	Risk	Impact	L	I	Current Risk Rating	Previous Risk Rating	Risk Control Measures	Assigned to	Target Date (priority items)
3	Changes in legislation and other regulatory frameworks, such as pooling or merging of LGPS schemes in Scotland, and the outcome of the consultation into the creation of a National Care Service, may impact adversely on the Fund in terms of funding levels and governance structures	Loss of investments or control of investments.	3	3	9	9	<ul style="list-style-type: none"> <li>• Participation in active CIPFA and Scottish Pension network allow changes and impacts to be identified quickly.</li> <li>• Involvement with COSLA discussions on Pensions.</li> <li>• Participation in consultation on pooling/merger by the Scheme Advisory Board.</li> <li>• Monitoring and highlighting actions and decisions from scheme advisory board.</li> </ul>	Head of Finance/PFSC	Ongoing
4	Brexit risks include the following which could impact the Funds Assets and Liabilities - <ul style="list-style-type: none"> <li>• Risk of rising inflation increasing the amount of future pensions paid.</li> <li>• Actuarial basis risk of falling gilt yields, which could accelerate rate at which contributions are required to be paid following the next actuarial valuation.</li> </ul>	Loss of value to the Fund.	4	2	8	8	<ul style="list-style-type: none"> <li>• Triennial valuation for 2020 will be completed and necessary adjustments made to the investment strategy as required.</li> <li>• Performance of the Pension Fund will continue to be monitored quarterly by Hymans Robertson and any recommendations they make on the assets held will be considered by the Pension Board and Sub-Committee.</li> </ul>	Head of Finance/PFSC	Ongoing 2047
9	Inefficiencies with the portfolio could result in unintended risks.	Underperformance of investments.	2	3	6	6	<ul style="list-style-type: none"> <li>• Diversified strategic asset allocation policy which is regularly reviewed by the PFSC.</li> <li>• Investment Management Agreement that incentivises the Fund Manager to outperform the benchmark and drive out any inefficiencies.</li> <li>• External independent consultants review the investment performance quarterly.</li> </ul>	Head of Finance/PFSC	Ongoing

**Pension Fund - Investment Risks**



Ranking	Risk	Impact	L	I	Current Risk Rating	Previous Risk Rating	Risk Control Measures	Assigned to	Target Date (priority items)
12	The outcome of the recent court judgements, including Mcloud and Goodwin, will impact future liabilities of the Fund and increase pressure on contributions depending on the remedy decided by the UK Government to compensate individuals for the difference in treatment since public service pension reforms in 2015 on the grounds of age and gender discrimination.	Increase in employer contribution rates.	5	1	5	5	<ul style="list-style-type: none"> <li>• Hymans Robertson provided an updated actuarial present valuation at the end of financial year 2018-2019 following the Court of Appeal judgement to estimate the impact of the McCloud judgement. A provision was made to recognise this in the Annual Accounts 2018-19.</li> <li>• Once the full implications of the ruling are established officers with assistance from Hymans Robertson will further quantify the impact on the Fund.</li> <li>• The cost cap introduced in 2015 will limit the impact.</li> </ul>	Head of Finance/PFSC	Ongoing
13	The Cost Cap or Cost Management as it is also known as, is being introduced to the LGPS as a mechanism for sharing funding risk between the employers and members. It will not be fully implemented until the outcome of the Mcloud judgement is known but could lead to scheme benefits changing and either employers or employees paying higher contributions.	Increase in employer contribution rates.	5	1	5	5	<ul style="list-style-type: none"> <li>• Once the full implications of the cost cap are established officers, with assistance from Hymans Robertson, will further quantify the impact on the Fund.</li> <li>• Good investment returns protect the Fund in the short term and the impact will be further reviewed in the interim valuations each year and at the next triennial valuation in 2023.</li> </ul>	Head of Finance/PFSC	Ongoing

2048

**Pension Fund - Investment Risks**



Ranking	Risk	Impact	L	I	Current Risk Rating	Previous Risk Rating	Risk Control Measures	Assigned to	Target Date (priority items)
19	Credit risk represents the risk that the counterparty to a transaction or a financial instrument will fail to discharge an obligation	Financial loss borne by the Pension Fund	2	2	4	4	<ul style="list-style-type: none"> <li>The Council's Annual Treasury Management Strategy sets out the Fund's approach to credit risk for internally managed funds. Deposits are only made with banks and financial institutions if they are independently rated and meet the OIC's credit criteria. The strategy also sets limits as to the maximum percentage of deposit with any one class of financial assets.</li> </ul>	Head of Finance	Ongoing
24	Negligence, default, fraud by investment manager.	Loss of value to the Fund; reputational damage.	1	3	3	3	<ul style="list-style-type: none"> <li>Indemnities in Investment Management Agreements and Financial Conduct Authority (FCA) Regulations.</li> <li>Separation of assets from management via global custody arrangement.</li> <li>Document review process on internal control reports from Fund custodians takes place.</li> <li>Process in place for reporting any significant issues to members of the Pension Board and Sub-Committee.</li> </ul>	PFSC	Ongoing 2049
25	Failure of Global Custodian.	Loss of investments or control of investments.	1	3	3	3	<ul style="list-style-type: none"> <li>Regular review and periodic re-tendering.</li> <li>Banking and FCA regulation. Fund's assets not on custodian's balance sheet.</li> </ul>	PFSC	Ongoing



## Minute

### Investments Sub-committee

Thursday, 24 February 2022, 14:00.

Microsoft Teams.



### Present

Councillors W Leslie Manson, Alexander G Cowie, Barbara Foulkes, Rachael A King, Stephen Sankey and James W Stockan.

### Clerk

- Sandra Craigie, Committees Officer.

### In Attendance

- Colin Kemp, Interim Head of Finance.
- Shonagh Merriman, Interim Corporate Finance Senior Manager.
- Michael Scott, Solicitor.

### Observing

- Kirsty Groundwater, Communications Team Leader.

### Apology

- Councillor Steven B Heddle.

### Declarations of Interest

- No declarations of interest were intimated.

### Chair

- Councillor W Leslie Manson.

## 1. Form of Voting

The Sub-committee resolved that, should a vote be required in respect of the matters to be considered at this meeting, notwithstanding Standing Order 21.4, the form of voting should be by calling the roll (recorded vote).

## 2. Disclosure of Exempt Information

The Sub-committee noted the proposal that the public be excluded from the meeting for consideration of Items 6 and 7, as the business to be discussed involved the potential disclosure of exempt information of the classes described in the relevant paragraphs of Part 1 of Schedule 7A of the Local Government (Scotland) Act 1973 as amended.

### **3. Revenue Expenditure Monitoring**

After consideration of a report by the Head of Finance, copies of which had been circulated, the Sub-committee:

Noted:

**3.1.** The revenue financial summary statement in respect of service areas for which the Investments Sub-committee was responsible, for the period 1 April to 31 December 2021, attached as Annex 1 to the report by the Head of Finance, indicating a budget surplus position of £5,947,900.

**3.2.** The revenue financial detail by service area statement in respect of service areas for which the Investments Sub-committee was responsible, for the period 1 April to 31 December 2021, attached as Annex 2 to the report by the Head of Finance.

The Sub-committee scrutinised:

**3.3.** The explanations given and actions proposed in respect of significant budget variances, as outlined in the Budget Action Plan, attached as Annex 3 to the report by the Head of Finance, and obtained assurance that action was being taken with regard to significant budget variances.

### **4. Temporary Loans**

After consideration of a report by the Head of Finance, copies of which had been circulated, and after hearing a report from Interim Corporate Finance Senior Manager, the Sub-committee:

Noted:

**4.1.** The status of the temporary loan portfolio as at 31 December 2021, as detailed in section 3 of the report by the Head of Finance.

**4.2.** That, for the period 1 April to 31 December 2021, the temporary loans portfolio made a return of £50,250.43 at an average interest rate of 0.21%.

The Sub-committee scrutinised:

**4.3.** The temporary loans portfolio, detailed in sections 3 and 4 of the report by the Head of Finance, and obtained assurance that the Treasury Management Strategy was being adhered to by the Finance Service and the temporary loans portfolio was producing an acceptable rate of return.

### **5. Exclusion of the Public**

On the motion of Councillor W Leslie Manson, seconded by Councillor James W Stockan, the Sub-committee resolved that the public be excluded for the remainder of the meeting, as the business to be considered involved the disclosure of exempt information of the classes described in Part 1 of Schedule 7A of the Local Government (Scotland) Act 1973 as amended.

## **6. Statement of Managed Funds**

Under section 50A(4) of the Local Government (Scotland) Act 1973, the public had been excluded from the meeting for this item on the grounds that it involved the disclosure of exempt information as defined in paragraph 6 of Part 1 of Schedule 7A of the Act.

After consideration of a report by the Head of Finance, copies of which had been circulated, and after hearing a report from the Interim Corporate Finance Senior Manager, the Sub-committee:

Noted:

**6.1.** The investment monitoring report for the Strategic Reserve Fund produced by Hymans Robertson, the Council's appointed investment advisor, attached as Appendix 1 to the report by the Head of Finance, relating to the performance of managed funds for the quarter to 31 December 2021.

**6.2.** That the Strategic Reserve Fund investments returned a gain of £7,500,000 which, after transfers into the Fund were taken into account, equated to a gain of 1.9% over the quarter to 31 December 2021 and was 2.1% behind benchmark, and therefore considered poor.

**6.3.** That the investment gains on the Strategic Reserve Fund had been positive over the 12-month period to 31 December 2021, with the value of the Fund increasing by 8.1% which, in absolute terms, was very good, however, at 3.1% behind benchmark was considered poor.

**6.4.** The Governance Summary extracted from Baillie Gifford's performance report for the quarter ending 31 December 2021, attached as Appendix 2 to the report by the Head of Finance.

**6.5.** The Barings Global High Yield Credit Strategies Environmental, Social and Governance report, attached as Appendix 3 to the report by the Head of Finance.

## **7. Review of Investment Strategy**

Under section 50A(4) of the Local Government (Scotland) Act 1973, the public had been excluded from the meeting for this item on the grounds that it involved the disclosure of exempt information as defined in paragraphs 6 and 9 of Part 1 of Schedule 7A of the Act.

After consideration of a report by the Head of Finance, copies of which had been circulated, the Sub-committee:

Resolved, in terms of delegated powers, what action should be taken with regard to the investment strategy for the Strategic Reserve Fund.

**The above constitutes the summary of the Minute in terms of the Local Government (Scotland) Act 1973 section 50C(2) as amended by the Local Government (Access to Information) Act 1985.**

## **8. Conclusion of Meeting**

At 14:37 the Chair declared the meeting concluded.

Signed: W Leslie Manson.