Minutes of the meeting of the Accounts Commission held in the Town Hall, Lerwick on Monday 28 and Tuesday 29 June 2010.

PRESENT: John Baillie (Chair)
Douglas Sinclair (Deputy Chair)
Christine May
Bill McQueen
Graham Sharp

IN ATTENDANCE: Mark Brough, Secretary and Business Manager

Item No	Subject
1.	Shetland Islands Council – Report by the Controller of Audit

1. Shetland Islands Council – Report by the Controller of Audit

The Commission held a hearing under section 103 of the Local Government (Scotland) Act 1973 to consider a report by the Controller of Audit on further audit work on Shetland Islands Council as requested in December 2009.

The Commission took evidence from—

- Caroline Gardner, Controller of Audit, Fraser McKinlay, Director of Best Value and Scrutiny Improvement, Lynn Bradley, Director of Audit Services (Local Government), Martin Walker, Portfolio Manager, and Carol Hislop, Audit Manager, Audit Scotland.
- Councillor Sandy Cluness, Convenor, Councillor Josie Simpson, Vice Convenor, Councillor Leslie Angus, Chair of Services Committee, Councillor Betty Fullerton, Vice Chair of Services Committee, Councillor Iris Hawkins, Chair of Infrastructure Committee, Councillor Allan Wishart, Vice Chair of Infrastructure Committee, Councillor Alastair Cooper, Vice Chair of Development Committee, Councillor Florence Grains, Chair of Audit and Scrutiny Committee, and Councillor Allison Duncan, Vice Chair of Audit and Scrutiny Committee, Shetland Islands Council.
- Hazel Sutherland, Depute Chief Executive and Executive Director of Education and Social Care, Gordon Greenhill, Executive Director Infrastructure Services, Graham Johnston, Head of Finance, Jan Riise, Head of Legal and Administration Services, John Smith, Head of Organisational Development, Neil Grant, Head of Economic Development, Robert Sinclair, Head of Capital Programming, Shetland Islands Council. Murray McCall, Partner, Anderson Strathern LLP.
- Councillor Bill Manson, Chair, and Dr Jeff Goddard, Financial Controller, Shetland Charitable Trust.
- Councillor Leslie Angus, Councillor Allison Duncan, Councillor Andrew Hughson, Councillor Gary Robinson, Councillor Cecil Smith and Councillor Jonathan Wills, Shetland Islands Council.
- David Clark, former chief executive, Shetland Islands Council.
- Allan Hannah, Unite; Brian Smith, UNISON; and Robert Williamson, GMB.
- Willie Shannon, Assistant Chief Executive, Shetland Islands Council;
- Rory Mair, Chief Executive, COSLA.
- Alistair Carmichael MP and Tavish Scott MSP.
- Kathleen Greaves; Kevin Learmonth, Vice-Chair, Sustainable Shetland; Les Sinclair and Vic Thomas.

At the conclusion of the evidence the hearing was adjourned.

Minutes of the meeting of the Accounts Commission held in the offices of Audit Scotland at 110 George Street, Edinburgh, on Wednesday 30 June 2010.

PRESENT: John Baillie (Chair)
Douglas Sinclair (Deputy Chair)
Christine May
Bill McQueen
Graham Sharp

IN ATTENDANCE: Mark Brough, Secretary and Business Manager

Item No	Subject
1.	Shetland Islands Council – Report by the Controller of Audit

1. Shetland Islands Council – Report by the Controller of Audit

The Commission resumed consideration of the report by the Controller of Audit on further audit work on Shetland Islands Council as requested in December 2009, together with the evidence of the hearing held on 28 and 29 June 2010.

The Commission agreed to continue consideration at a later date.

Minutes of the meeting of the Accounts Commission held in the offices of Audit Scotland at 18 George Street, Edinburgh, on Thursday 15 July 2010.

PRESENT: John Baillie (Chair)
Douglas Sinclair (Deputy Chair)
Christine May
Bill McQueen
Graham Sharp

IN ATTENDANCE: Mark Brough, Secretary and Business Manager

Item No	Subject
1.	Shetland Islands Council – Report by the Controller of Audit

1. Shetland Islands Council – Report by the Controller of Audit

The Commission resumed consideration of the report by the Controller of Audit on further audit work on Shetland Islands Council as requested in December 2009, together with the evidence of the hearing held on 28 and 29 June 2010.

The Commission agreed to continue consideration at a later date.

Minutes of the meeting of the Accounts Commission held in Glasgow, on Tuesday 3 August 2010.

PRESENT: John Baillie (Chair)
Douglas Sinclair (Deputy Chair)
Christine May
Bill McQueen
Graham Sharp

IN ATTENDANCE: Mark Brough, Secretary and Business Manager

Item No	Subject
1.	Shetland Islands Council – Report by the Controller of Audit

1. Shetland Islands Council – Report by the Controller of

The Commission resumed consideration of the report by the Controller of Audit on further audit work on Shetland Islands Council as requested in December 2009, together with the evidence of the hearing held on 28 and 29 June 2010.

The Commission agreed to continue consideration at a later date.

Minutes of the meeting of the Accounts Commission held in the offices of Audit Scotland at 110 George Street, Edinburgh, on Wednesday 11 August 2010.

PRESENT: John Baillie (Chair)
Douglas Sinclair (Deputy Chair)
Christine May
Bill McQueen
Graham Sharp

IN ATTENDANCE: Mark Brough, Secretary and Business Manager

Item No	Subject
1.	Shetland Islands Council – Report by the Controller of Audit

1. Shetland Islands Council – Report by the Controller of Audit

The Commission resumed consideration of the report by the Controller of Audit on further audit work on Shetland Islands Council as requested in December 2009, together with the evidence of the hearing held on 28 and 29 June 2010.

The Commission agreed to make findings and recommendations as contained in the Appendix to this minute.

Appendix

ACCOUNTS COMMISSION FOR SCOTLAND

SHETLAND ISLANDS COUNCIL: REPORT BY THE CONTROLLER OF AUDIT

FINDINGS AND RECOMMENDATIONS OF THE ACCOUNTS COMMISSION FOR SCOTLAND

On 13 May 2010, the Accounts Commission considered a report by the Controller of Audit on further audit work on Shetland Islands Council, as requested in December 2009. The report was made under section 102 of the Local Government (Scotland) Act 1973. In light of the nature of the issues covered in the report, the Commission agreed to hold a hearing.

The hearing was held on 28 and 29 June 2010 in Lerwick, Shetland. Details of those giving evidence at the hearing can be found in the annexe to these findings and recommendations.

Findings

Introduction

1. Shetland Islands Council was established in 1975, and is one of three islands councils in Scotland. The Commission appreciates the issues, benefits and challenges which arise for elected members and officers operating in a comparatively small and close-knit island community. Islanders' pride in their history and culture is obvious, as is the council's role in sustaining significant aspects of local economic and cultural life. Nonetheless, the issues and challenges in terms of good governance and accountability faced by Shetland Islands Council are in essence no different from those in any other council.

2. The Commission notes the acknowledgement in the Controller of Audit's report that services provided by the council continue to be delivered to a high standard, albeit at a relatively high cost.

Leadership, vision and strategic direction

3. The Commission finds that there has been an absence of clear, decisive and consistent leadership for Shetland Islands Council at councillor level. The council has struggled to agree and communicate a clear common purpose, which has been made more difficult by significant tensions among councillors and between councillors and officers.

4. The Commission finds that councillors have not demonstrated their ability to balance their corporate and community leadership roles effectively. Councillors appear to be effective advocates for their local communities. They place greater emphasis on local issues and circumstances than on the council's corporate priorities. The Commission is concerned that it did not hear evidence that would change the conclusion of the 2005 Best Value audit report that 'councillors have a marked tendency to represent the narrow interests of their wards at the expense of their wider corporate role for the

council and Shetland as a whole'[1]. The absence of party political groups does not explain why councillors have failed to show clear corporate leadership. Councillors receiving enhanced salaries for holding positions with additional responsibilities have a particular obligation to fulfil this role.[2]

5. The council's processes and procedures have not helped councillors and senior managers act in a coherent and authoritative manner. The Commission considers that meetings between senior councillors, and between senior councillors and officers, have for too long been ad hoc, informal and undocumented. The council must have rigorous systems which support leadership, transparency and clear decision-making.

6. It is not clear how the council systematically seeks to identify and understand the needs and expectations of the community as a whole. The Commission noted public concern that elected members do not listen to, or communicate with, the community in a structured way.

7. The Commission does not have any sense of how the council develops a clear set of priorities which can be communicated effectively to the public. Councillors must now set aside personal differences and develop a clear and coherent set of priorities, based on objective evidence and a sound understanding of the needs and expectations of the community the council serves.

8. The Commission found little evidence of Shetland Islands Council looking elsewhere to learn from good practice in terms of governance and leadership. All councils in Scotland operate under the same statutory framework, and Shetland Islands Council must now acknowledge and follow recognised good practice.

9. The Commission found limited evidence of effective leadership from the corporate management team. The last 12 months have been a particularly difficult period, but all senior managers have an individual and collective responsibility to lead for the good of the council as a whole, as well as in their area of direct responsibility.

10. The events of the last year have made it difficult for councillors and officers to maintain mutual trust and respect. This makes it crucial that good governance is in place and that councillors and officers adhere to the agreed policies and procedures.

11. The Commission heard evidence that robust appraisal and rigorous challenge of policy choices is lacking in the council. There is a poorly structured approach to engagement between senior officers and councillors, and a lack of appreciation of good practice elsewhere.

12. The appointment of an interim chief executive provides an opportunity to improve corporate leadership. There is a danger, apparent in the evidence we heard, of unrealistic expectations being placed on the interim chief executive. The part he can play will only be successful if all councillors accept their responsibilities for good governance; if there is leadership from the office of convenor; and if all members of the corporate management team provide effective support.

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[1] *Shetland Islands Council: The Audit of Best Value and Community Planning,* 31 March 2005 Audit Scotland for the Accounts Commission: http://www.audit-scotland.gov.uk/docs/local/2004/bv_050331_shetland.pdf

[2] In additional to councillors' basic salaries, councils are able to pay enhanced salaries to a limited number of councillors holding senior positions within the council. Typically, these posts might include the leader or convenor of the council, provost, cabinet members, or convenors or chairs of major policy or regulatory committees, and the leader of a significant opposition group. Shetland Islands Council is currently permitted to pay such enhanced salaries to up to nine councillors.

Governance

13. The Commission finds that the approach to governance at Shetland Islands Council is haphazard. We are particularly concerned to have found a lack of appreciation of the seriousness of this issue, its importance, and the implications of any failings. The Commission did not find evidence of a shared understanding among councillors, and between councillors and officers, of what good governance means and requires.

14. We do not accept the suggestion that the non-party political nature of the council, or the small close-knit community with people inevitably playing multiple roles, provides justification for this inconsistent approach to governance. On the contrary, in these circumstances it is the more important that issues of transparency and public confidence in decision processes are seen to be taken seriously.

15. For example, it is a matter of serious concern to the Commission that the council finds itself in a position where, for whatever reason, some councillors are able to report that they did not clearly understand the nature and implications of what the council decided on the position of the former chief executive at its meeting on 19 February 2010. This demonstrates a failure of governance and decision-making processes which has made it very difficult for the council to explain clearly these important decisions to the local community.

16. The Commission appreciates that an enquiring and engaged media is central to strong local democracy. However, council business should not be played out in the media as an *alternative* to pursuing solutions through the council. *The Code of Conduct for Councillors*[1] demands that any confidentiality requirements relating to council business must be observed, regardless of personal views on whether information should be publicly available.

17. It is crucial that councillors adhere to the spirit, as well as the letter, of the relevant codes of conduct and behaviours. As well as the *Code of Conduct for Councillors,* there is a wide range of guidance available which should set the benchmark for those in public life serving the people of Shetland. Councillors should familiarise themselves with this guidance, and in particular the report of the Independent Commission on Good Governance in Public Services[2].

18. It is also the responsibility of senior officers to ensure that the guidance and good practice is brought to the attention of councillors. Senior officers must also ensure that councillors are given clear and timely advice so that they are in no doubt as to their obligations. In particular, it is essential for officers with specific statutory responsibilities to exercise, and be seen to exercise, their roles in an independent and proactive manner.[3]

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[1] *Code of Conduct for Councillors*. Produced in accordance with section 1 of the Ethical Standards in Public Life etc. (Scotland) Act 2000. http://www.scotland.gov.uk/Resource/Doc/46905/0028864.pdf. On taking office, all councillors must sign a formal Declaration of Acceptance of Office, in which they undertake to meet the requirements of the Code. They cannot carry out any functions as councillors until they have done so. It is the responsibility of councillors to ensure that they are familiar with, and that their actions comply with, its provisions.

[2] *The Good Governance Standard for Public Services*, produced by the Independent Commission on Good Governance in Public Services and published by the Office for Public Management Ltd and The Chartered Institute of Public Finance and Accountancy (2004), http://www.cipfa.org.uk/pt/download/governance_standard.pdf

[3] Among those officers with specific statutory responsibilities are the chief financial officer and the monitoring officer:

19. The Commission is concerned that it received little demonstration of these principles being applied rigorously by either councillors or officers. Of particular concern is the council's approach to identifying, acknowledging and managing conflicts of interest. The Commission is concerned to note several inconsistencies in these witnesses' understanding of the requirements, and a lack of clarity in how this is dealt with by the council.

20. The view presented of the relationship between the council and the Shetland Charitable Trust was contradictory. The council has in the past asserted that the fact that councillors also act as trustees of the Shetland Charitable Trust facilitates co-ordination between the two bodies.[1] On the other hand, councillors refused to acknowledge the possibility of conflicts of interest in relation to council business, as they asserted that they take decisions in each body entirely independently of any influence arising from their membership of the other.

21. Councillors do not appear to have considered their position on the Charitable Trust with regard to the Code of Conduct and how this might affect the way council business on certain matters is conducted. This is particularly important given the discussions and decisions likely to be involved in any projects or funding partnerships affecting both bodies.

22. The Code of Conduct highlights the importance of transparency where there is a possible conflict of interest between the council and another body. Councillors gave no evidence of having considered carefully and rigorously the requirements of the Code of Conduct in relation to transparency and erring on the side of caution in relation to interests.

23. Councillors have an obligation actively to seek advice on how to manage potential conflicts of interest. There is also a responsibility on officers, in particular a statutory responsibility on the monitoring officer, to ensure that clear and timely advice is given to councillors to allow them to decide the correct course of action. The evidence we heard did not convince us that there has been a consistent approach to this.

24. It is essential that councillors give due weight and respect to the professional advice provided by officers, and set it aside only after careful consideration and reasoned justification. The decision by the council to ignore the professional advice of officers in relation to the recruitment process adopted in the appointment of the former chief executive is a matter of concern. Criticism in public of the performance of the former chief executive, which the *Code of Conduct for Councillors* specifically states should not happen, raises similar concerns. We are concerned that the level of mutual respect and trust in the council among councillors, and between councillors and officers, falls below what should be expected.

Section 95 of the Local Government (Scotland) Act 1973 requires local authorities to make arrangements for the proper administration of their financial affairs and to appoint a chief financial officer to have responsibility for those arrangements.
Section 5 of the Local Government and Housing Act 1989 requires local authorities to designate an officer as monitoring officer, with responsibility for advising councillors about the legal position of proposed actions.

[1] The trust deed provides that all councillors of Shetland Islands Council, the headteacher of Anderson High School, Lerwick, and the Lord Lieutenant of Shetland shall be trustees *ex officio*. All except one councillor currently act as trustees.

Financial management and accountability

25. The Commission noted that councillors and officers acknowledge the very real financial pressures faced by the council. In recent years the council has drawn significantly from reserves to meet current expenditure. In her report, the Controller of Audit said: 'The council has a substantial level of reserves, but it faces challenges in achieving its financial strategy. It has agreed budget savings for 2010/11, but has yet to demonstrate how it can sustain its current level of service delivery in future years, while maintaining its target reserves balance and delivering its capital plans.'

26. The Commission heard nothing to change this assessment. The council needs to demonstrate that it has the capacity to take difficult decisions in future to operate in accordance with its own financial strategy. The capital programme has been inadequately managed in the past, as acknowledged by the council, and there appears to be little consideration by the council of value for money in the delivery of services.

27. We welcome the council's appointment of a head of capital programming and its recent initiatives that aim to establish a sustainable capital programme, best value in procurement and a comprehensive asset strategy. The test of these initiatives, however, will be in whether the council is able to implement such plans effectively when difficult choices have to be made.

28. The finance function in any council should play a central role in supporting good governance and effective decision-making. It is, therefore, essential that the finance department supports the council effectively as it seeks to sustain levels of service, while maintaining the levels of reserves required by its strategy. We are concerned at the level and quality of budget management information available to councillors, and at the apparent lack of critical appraisal of that information. Councillors must receive robust advice on policy choices and develop the skills to discharge their scrutiny role rigorously if they are to support decision-making across all areas of operation. The Controller of Audit's report identifies some specific issues which highlight the difficulty the council has in effective decision-making – such as the significant time and money spent, with very limited progress, on the redevelopment of Anderson High School.

29. A particular issue in the Controller of Audit's report is the disagreement between the council and its external auditors about the accounting treatment of Shetland Charitable Trust, which has led to the Shetland Islands Council financial statements being qualified for four years in succession.

30. We found no convincing argument to justify the way in which the council has prepared its accounts. We do not accept that the qualification results from a failure of Audit Scotland (and by inference, the previous external auditors Pricewaterhouse Coopers) to appreciate the nature of the relationship between the council and the Shetland Charitable Trust. Neither do we accept that this is a purely technical matter. It represents a material misreporting of the resources over which the council has influence, and has resulted in repeated qualification by the council's external auditors. We heard no reason to disagree with the appointed auditor on this matter. The Commission welcomes the willingness expressed by the convenor and senior councillors to resolve the qualification, but notes that such willingness has been expressed previously by the council without progress being made.

31. The head of finance, as the officer with statutory responsibility under section 95 of the Local Government (Scotland) Act 1973, has an obligation to take account of the Statement of Recommended Practice (SORP) in preparing the council's accounts. The SORP constitutes proper accounting practice under section 12 of the Local

Government in Scotland Act 2003, and its application cannot be set aside by either the council or its auditors. We are concerned that the council and the relevant statutory officers could provide no clear justification for not following the SORP. The council's position on preparation of the accounts appeared to be based on a long-held view of the head of finance, but he offered no analysis of the accounting issues in support of this.

32. We consider that the other qualification of the council's 2008/09 accounts, relating to the failure to value its financial assets in accordance with accounting requirements, also indicates weaknesses in the finance department and its appreciation of the importance of good accounting practice to public accountability.

The former chief executive

33. In these findings the Commission comments on the processes used in the recruitment and subsequent employment of the former chief executive. However, we do not comment on either the decision to appoint, or the competence of, the former chief executive.

34. The Commission found no convincing explanation for why the council departed from the professional advice of its officers on the processes to be used for recruiting the former chief executive. Further, there were no clear objectives and performance appraisal system agreed for the chief executive. Not to do so at the earliest opportunity was a substantial failure on the part of the council.

35. Similar issues arose in connection with a previous chief executive in 1999. We are concerned that this demonstrates continuing failings in the council's approach to recruiting senior people, and we found a lack of evidence of the council's ability to learn from past events. We note the council's stated resolve never to repeat these mistakes, and note with approval the improvements that the council has said it applied in the way it approached the recent appointment of an interim chief executive.

36. The Commission considers that it is deeply disappointing that public money has been spent on a negotiated settlement to agree the departure of the former chief executive. The Commission considers it to be a matter of very significant concern that working relationships had broken down to such an extent within a very short time of the former chief executive taking up the post.

37. The Commission recognises that the decision to reach a negotiated settlement with the former chief executive has caused considerable anger in the local community. The council relied heavily on external advice in resolving the position of the former chief executive. It is important to emphasise, however, that responsibility for the decisions made is ultimately the council's alone, and it was for the relevant statutory officers to ensure that they advised the council clearly and comprehensively on all the implications.

38. The Commission finds that the council must bear significant responsibility for reaching the position where it decided that a negotiated settlement had to be pursued within a few months of the appointment. Had proper steps been taken to introduce formal objectives and a performance appraisal process – as would be expected for all employees – the council would have been in a stronger position to consider other approaches to resolving matters, without the same cost to the public purse or damage to the council's reputation.

39. In addition, the actions of elected members further damaged the council's own position. The Commission finds clear evidence that elected members were cautioned in November 2009 that criticism in public of officers represented a significant risk to the council. Despite this, such criticism in public continued.

40. The Commission also heard clear evidence that the position of those negotiating on behalf of the council may have been significantly weakened by leaks of confidential information. In particular, we find that the leaking of confidential advice given to the council meeting of 4 February 2010 prejudiced the position of the council's representatives in negotiating the amount of a settlement.

41. Once the council was in this difficult position, we find that it was appropriate and in the interests of the council to resolve the situation quickly. We accept that not to do so would have risked a prolonged period of litigation and undermined the possibility of the council making progress from a position which by then risked paralysing the council's ability to conduct its business effectively.

The post of assistant chief executive

42. The Controller of Audit's report explains the sequence of events relating to the proposed deletion of the assistant chief executive post, subsequent return to work of the postholder and continued uncertainty over the position. We would expect that a post at this senior level would have weighty and appropriate corporate responsibilities assigned to it. We do not understand, therefore, why no clear job description has yet been agreed or why neither the council nor the postholder has ensured that he has played a full part in the council's corporate management team.

43. The lack of transparency in creating and filling the post of assistant chief executive in the first place in 2006 has contributed to subsequent problems. The council must operate on the principle that recruitment for all senior posts will be robust and transparent.

44. It was not clear whether there was delegated authority for the chief executive to delete this post. We heard evidence from the monitoring officer that delegated authority had previously been granted for the chief executive to make changes to the staffing structure under certain conditions. We note that this evidence is different from that found[1] by the Chief Investigating Officer[2]. The former chief executive acknowledged with hindsight that there were failings in the way in which he managed his decision on this post. However, it is unacceptable that it was not clear and beyond dispute with all parties in the council whether or not this delegated authority existed.

45. The decision of the convenor to meet the assistant chief executive to discuss a grievance in relation to his employment is a further example of a lack of understanding and inconsistent application of basic governance principles. The council should have adhered to the recognised policies and procedures that are in place for all staff in relation to grievances. We consider that the convenor should have been provided with clear, robust and accurate advice on these points.

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[1] Paragraph 16 of the summary note of decision in the case of complaint number LA/SI/914 concerning an alleged contravention of the Councillors' Code of Conduct by Councillor Jonathan Wills of Shetland Islands Council.
http://www.standardscommissionscotland.org.uk/investigations/shetland_island/la_si_914.html

[2] The Chief Investigating Officer is a statutory post established under the Ethical Standards in Public Life etc. (Scotland) Act 2000. The CIO is appointed by Scottish ministers to investigate and report on complaints alleging a breach of the relevant Code, and is responsible for deciding whether to report the outcome of any investigation to the Standards Commission.

Recommendations

The Commission makes the following recommendations to Shetland Islands Council:

The council must put in place a comprehensive programme of improvements as a matter of urgency to address the issues we have identified. The programme should set clear objectives, milestones and timescales for delivery.

This programme of improvements should ensure that:

- the council can develop the leadership, governance and strategic direction it requires
- there is the basis for effective working relationships among councillors and between councillors and officers
- all procedures for decision-making are robust and transparent, and can command public confidence
- the council has the capacity to deliver its financial strategy.

In particular, the programme of improvements should address the following specific recommendations:

a) The council should establish a comprehensive programme of training and development to be undertaken by all councillors and senior officers to enable them to understand how to perform effectively in their roles and how to demonstrate the value of good governance through their conduct. This programme should ensure that:
    - councillors, in particular those holding positions with additional responsibilities, are able to develop clear and authoritative strategic leadership
    - councillors are able to distinguish appropriately the requirements of their separate duties as local representatives and corporate leaders,
    - mutual trust and respect is established among and between councillors and officers for their respective roles
    - senior officers establish a strong and effective commitment to meet their strategic corporate responsibilities.

b) The council should review its approach to governance, and ensure that rigorous systems are in place to support clear and transparent decision-making, such as formal recording of meetings and routine systems for the dissemination of decisions and information to staff and the public.

c) The council should agree effective procedures for engaging with the local community and understanding its needs and expectations, and put these procedures on a systematic basis.

d) The council should improve the way it develops clear, coherent messages to communicate with the local community, and take steps to improve the way it conducts its relationship with the media and recognises the media's legitimate interest in council matters.

e) The council should develop a systematic approach to engaging with the wider local government community, ensuring regular attendance at meetings of professional and representative bodies, and learning from good practice.

f) Councillors and senior officers should work together to improve the management information available to councillors, to enhance the capacity and commitment to deliver robust appraisal of policy choices, and thereby help to ensure that councillors are supported to develop the skills to discharge their scrutiny role rigorously.

g) Councillors should work together to ensure that they have a shared understanding of the requirements of the Code of Conduct and other relevant guidance for the way they approach the council's business.

h) The council should review the way in which it advises councillors on the issue of their interests, and ensure that it is able to explain coherently and publicly the way in which councillors are expected to approach recurring issues such as the role of councillors as trustees of Shetland Charitable Trust.

i) The council should ensure that senior officers, particularly the relevant statutory officers, are able fully to advise councillors on their obligations.

j) The council should establish rigorous processes to ensure that it can put its use of resources on a footing that is consistent with implementing and sustaining its financial strategy, and demonstrate that it can deliver services in a way which achieves Best Value.

k) The council should address the weaknesses in its finance function to ensure that it complies with good practice and relevant objective standards, and provides appropriate information to allow councillors to exercise robust strategic budget management.

l) The council should ensure that the qualification of its accounts in relation to the accounting treatment of the Shetland Charitable Trust is resolved in time for the audit of the financial statements for 2010/11.

m) The council should ensure that robust and transparent procedures are established and followed for the creation and filling of all posts, and the performance management and appraisal of all staff.

The Local Government (Scotland) Act 1973 (as amended) requires the council to consider these findings at a meeting of the council within three months of receiving them, and to decide whether to accept any or all of these recommendations and what action to take in response to them.

The Commission will continue to monitor the circumstances of the council through the council's external auditors, and notes that the recently-agreed Assurance and Improvement Plan also sets out planned strategic scrutiny activity for Shetland Islands Council over the period to March 2013.[1] The next version of the Assurance and Improvement Plan will reflect the Commission's findings and recommendations.

We require a further report by the Controller of Audit in around 12 months' time on progress made by the council. We will give consideration at that point to any further measures that need to be taken.

[1] Shared Risk Assessment: Assurance and Improvement Plan 2010-13 for Shetland Islands Council. http://www.audit-scotland.gov.uk/work/scrutiny/docs/Shetland_Islands.pdf

Annexe

At the hearing on 28 and 29 June 2010, the Commission took evidence from the following people:

- Caroline Gardner, Controller of Audit, Fraser McKinlay, Director of Best Value and Scrutiny Improvement, Lynn Bradley, Director of Audit Services (Local Government), Martin Walker, Portfolio Manager, and Carol Hislop, Audit Manager, Audit Scotland.
- Councillor Sandy Cluness, Convenor, Councillor Josie Simpson, Vice Convenor, Councillor Leslie Angus, Chair of Services Committee, Councillor Betty Fullerton, Vice Chair of Services Committee, Councillor Iris Hawkins, Chair of Infrastructure Committee, Councillor Allan Wishart, Vice Chair of Infrastructure Committee, Councillor Alastair Cooper, Vice Chair of Development Committee, Councillor Florence Grains, Chair of Audit and Scrutiny Committee, and Councillor Allison Duncan, Vice Chair of Audit and Scrutiny Committee, Shetland Islands Council.
- Hazel Sutherland, Depute Chief Executive and Executive Director of Education and Social Care, Gordon Greenhill, Executive Director Infrastructure Services, Graham Johnston, Head of Finance, Jan Riise, Head of Legal and Administration Services, John Smith, Head of Organisational Development, Neil Grant, Head of Economic Development, Robert Sinclair, Head of Capital Programming, Shetland Islands Council. Murray McCall, Partner, Anderson Strathern LLP.
- Councillor Bill Manson, Chair, and Dr Jeff Goddard, Financial Controller, Shetland Charitable Trust.
- Councillor Leslie Angus, Councillor Allison Duncan, Councillor Andrew Hughson, Councillor Gary Robinson, Councillor Cecil Smith and Councillor Jonathan Wills, Shetland Islands Council.
- David Clark, former chief executive, Shetland Islands Council.
- Allan Hannah, Unite; Brian Smith, UNISON; and Robert Williamson, GMB.
- Willie Shannon, Assistant Chief Executive, Shetland Islands Council;
- Rory Mair, Chief Executive, COSLA.
- Alistair Carmichael MP and Tavish Scott MSP.
- Kathleen Greaves; Kevin Learmonth, Vice-Chair, Sustainable Shetland; Les Sinclair and Vic Thomas.

A transcript of the hearing is available on Audit Scotland's website www.audit-scotland.gov.uk

The Commission sought introductory written submissions from all witnesses in advance of the hearing. These were published on the website prior to the hearing. Reference was also made to a number of other documents during the course of the hearing.

For further details of the hearing or any of the documents referred to, please contact the Secretary to the Commission.