Shetland Charitable Trust

Article by Keith Massey

Chair, SCT Audit and Governance Advisory Committee

My purpose in this article is to clear up some of the misunderstandings that have arisen in public and media discussion of the latest reforms to Shetland Charitable Trust.

Firstly, I would like to emphasise that the decisions made at the Trust's most recent meeting on 12th May – including reducing the number of councillor-trustees from seven to four while taking steps to broaden both the age and gender diversity of trustees – require approval from the Office of the Scottish Charity Regulator (OSCR).

Before we seek approval from OSCR, the Trust's chief executive and I will begin a formal consultation with Shetland Islands Council on the terms of the governance review and the number of councillor-trustees in particular.

In line with standard practice, as part of its approval process OSCR will invite members of the public to submit their comments.

Trustees took the view that this was more appropriate than the Trust itself carrying out an expensive public consultation at a time of austerity, especially given that no fundamental changes were being proposed.

The Trust, which was set up by the council to manage the disturbance payments made by the oil industry, has for more than a decade been distancing itself structurally from the council while continuing to work with the local authority for the benefit of everyone in the islands.

That is a result of the evolution of charity law in this country, which now proscribes conflicts of interest, whether those of a councillor who sits on the Trust or an appointed trustee who may be seen to represent a group or any other vested interest.

In 2003, the name changed from the Shetland Islands Council Charitable Trust to the Shetland Charitable Trust and the Trust employed its own staff.

In 2012, the make-up of the Trust was changed from 22 councillors and two appointees to seven councillor-trustees and eight appointed trustees.

The latest changes emanate from a condition that was agreed in 2012 to conduct an independent review of the performance of the new arrangements within three years.

This review began in August last year. The Institute of Directors Scotland (IoD) won a tender to carry it out, overseen by trustees and officers. An extensive series of interviews and discussions were held and detailed reports produced.

A fundamental point emphasised repeatedly during the review process was that the combination of councillor-trustees and appointed trustees had worked well, with difficulties on only a handful of occasions.

Similarly, it was clear that there had been no “us” and “them” split between councillor-trustees and appointed trustees.

All aspects of Trust governance highlighted by the IoD, including election versus selection, were considered by trustees, and a consensus developed around the recommendations that were made in the final report.

Yes, amendments were not permitted by our admin regulations, but trustees were entirely free to support or reject the recommendations, or indeed propose an alternative for officers to take away and consider (before bringing new recommendations to a future trust meeting).

While individual trustees have different views on how the board should be chosen, one thing that has become evident to me in undertaking this review is how the Trust is united behind seeking a fairer and more comprehensive representation of the people of Shetland.

The reality is that with such a wide-ranging Trust Deed as ours, institutional conflicts will remain a fact of life in such a small population.

However, we have a duty to ensure that as broad as possible a cross-section of that population sits on the board and we will now begin work on detailed proposals for achieving this.

Finally, it is worth remembering that the Trust has charity status for a very good reason – to maximise the financial benefits of the funds to Shetland. Were it not a charity, the Trust would be obliged to hand over a large chunk of income to the UK Treasury every year.

This means that while its origins may be unique, the Trust today is far from unique in how it must operate under the regulatory troika of OSCR, HMRC and its own auditors.

One of the many consequences of this tight regulatory framework is that the Trust is discouraged from conducting its business through the media. It has been very frustrating for trustees that only part of the story could be told. Now the facts have been set straight.

Ends

Notes to editors

Shetland Charitable Trust is one of the largest such trusts in Scotland. The value of its investments is currently around £224m, with some £192m invested in the world’s markets and £23m in the local economy. Funded originally by Shetland Islands Council’s “disturbance payments” from the oil industry between 1976 and 2000, it now relies entirely on its investment income.

The trust formerly comprised all councillors plus two independents. This changed in 2012 and it is now a completely separate organisation from the council, with a built-in majority of independent trustees.

Shetland Charitable Trust owns three companies: Shetland Leasing and Property Developments Ltd (SLAP); Shetland Heat Energy and Power Ltd (SHEAP); and SCT Renewables Ltd.

Registered Charity No. SC 027025