

Committee	Transition Board – Shetland Merger Project
Subject	Communications on the Legal structure of new college
Action requested	<input type="checkbox"/> For information only <input checked="" type="checkbox"/> For discussion <input type="checkbox"/> For recommendation <input type="checkbox"/> For endorsement <input type="checkbox"/> For approval
Brief summary of the paper	<p>Now that Shetland UHI Ltd is fully constituted, this paper considers additional communication that is desirable for communicating the legal structure of the new college.</p> <p>The Transition Board confirmed the recommendation taken by the earlier shadow board that the new college should be a company limited by guarantee with non-incorporated status.</p> <p>The attached paper sets out the rationale for the new college being a company limited by guarantee, a registered charity and a non-incorporated college assigned to UHI.</p> <p>At Appendix 1 a letter from John Swinney, MSP, Cabinet Secretary for Education is attached. This letter was written to the interim vice chancellor of the university advising that neither he nor his fellow ministers in the Scottish Government have a role in deciding the legal status of the college.</p>
Resource implications (If yes, please provide details)	<p>Yes – non incorporation allows resources to be retained within college and gives greater flexibility</p> <p>Click or tap here to enter text.</p>
Risk implications (If yes, please provide details)	Yes – risk of restrictive structure could limit range of college activity
Date paper prepared	06/11/2020
Date of committee meeting	18/11/2020
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<p>Link with strategy</p> <p>Please highlight how the paper links to the Strategic Plan, or assist with:</p> <ul style="list-style-type: none"> • Compliance • National Student Survey • partnership services • risk management • other activity [e.g. new opportunity] – please provide further information. 	<p>Legal structure of college</p>
<p><u>Equality and diversity</u></p> <p>Does this activity/ proposal require an Equality Impact Assessment?</p>	<p>No</p> <p>Click or tap here to enter text.</p>
<p><u>Data Protection</u></p> <p>Does this activity/ proposal require a Data Protection Impact Assessment?</p>	<p>No</p> <p>If yes, please give details: this is specifically addressed in the revised agreements.</p> <p>Click or tap here to enter text.</p>
<p>Island communities</p> <p>Does this activity/ proposal have an effect on an island community which is significantly different from its effect on other communities (including other island communities)?</p>	<p>No</p> <p>If yes, please give details:</p> <p>Click or tap here to enter text.</p>
<p>Status (e.g. confidential, non-confidential)</p>	<p>Non-confidential</p>

<p>Freedom of information</p> <p>Can this paper be included in “open” business?*</p>	open
<p>Consultation</p> <p>How has consultation with partners been carried out?</p>	Consultation leading to the FBC from SIC, consultation leading to the development of the MMBC and subsequent consultation on the MMBC and reported to SFC. SFC engagement process.

* If a paper should **not** be included within ‘open’ business, please highlight below the reason.

Its disclosure would substantially prejudice a programme of research	<input type="checkbox"/>	Its disclosure would substantially prejudice the effective conduct of public affairs	<input type="checkbox"/>
Its disclosure would substantially prejudice the commercial interests of any person or organisation	<input type="checkbox"/>	Its disclosure would constitute a breach of confidence actionable in court	<input type="checkbox"/>
Its disclosure would constitute a breach of the Data Protection Act	<input type="checkbox"/>	Other Click or tap here to enter text.	<input type="checkbox"/>

Context

A variety of discussions, presentations and legal advice have led the several formal documents on Shetland's college merger to conclude that the new merged college should be a company limited by guarantee, a registered charity and a non-incorporated college assigned to UHI.

The background and rationale for this decision is given in Annex 1 (Legal Structure of Shetland UHI) a position that was confirmed by the Transition Board in the response to the consultation report in August and in the adoption of the Memorandum and Articles and formation of the Transition Board. We also note the DFM advice that this decision is for the college and project board to decide.

In the consultation on the Ministerial Merger Business Case and in the recent SFC engagement exercise, staff and students have suggested that they don't fully understand the legal status of the new College and this is leading to unnecessary concerns over the merger.

Meetings with both student and staff representatives have led to the following activities being put in train:

1. Information sheet for staff and students to be placed online with an opportunity to post questions and FAQs to be posted to further explain as required
2. Short videos to be made for students including one covering the main points of the legal status
3. Updating of the merger website with the latest information

The board is asked to note these activities and is invited to suggest any further communications required