

Transition Board – Shetland Merger Project

Committee	Transition Board – Shetland Merger Project
Subject	Update on steps to merger
Action requested	<input type="checkbox"/> For information only <input checked="" type="checkbox"/> For discussion <input type="checkbox"/> For recommendation <input type="checkbox"/> For approval
Brief summary of the paper	Paper provides a summary of recent activity and progress on steps to merger as identified in TB2021-14 for Board consideration.
Resource implications [if yes, please provide detail]	Yes Click here to enter text.
Risk implications [if yes, please provide detail]	Yes Risks to merger progress associated with failure to complete key tasks on time
Date paper prepared	18-May-21
Date of committee meeting	19-May-21
Author	Jane Lewis
Equality and diversity	No
Status	Non-confidential
Freedom of Information Can this paper be included in 'open' business?*	Yes
Status following the meeting	

Context

This paper follows on from a paper presented to the Transition Board in April (TB2021-14). It seeks to set out recent activities and note the future activities required to vesting (Table 1 & Annex 1).

Becoming a College Board

Following the August vesting date we move to being a College Board rather than a Transition Board.

Within the Articles the make-up of the College Board will be:

Executive Director (Principal) – 1

Staff Directors (One teaching and one non-teaching) – 2

Student Directors – 2

Independent Directors up to 13

In respect of the Staff Directors, the articles provide that

- On the first vesting date (NAFC Marine), the Staff Directors from NAFC Marine shall immediately resign. An election for one employee to serve on the board as a Staff Director must be held within 8 weeks of that vesting date and the resignations take effect once that election has taken place. At the first meeting of Directors following the election, they will appoint the member of staff duly elected as a Staff Director.
- On the second longstop date (Shetland), the Staff Directors from Shetland shall immediately resign. An election for one employee to serve on the board as a Staff Director must be held within 8 weeks of that vesting date and the resignations take effect once that election has taken place. At the first meeting of Directors following the election, they will appoint that member of staff duly elected as a Staff Director.

Similarly for student Directors:

- On the first vesting date (NAFC Marine), the relevant Student Director will immediately resign. An election for one student to serve on the board as a Student Director must be held within 8 weeks of that vesting date and the resignations take effect once that election has taken place. At the first meeting of Directors following the election, they will appoint the student duly elected as a Student Director.
- On the second vesting date (NAFC Marine), the relevant Student Director will immediately resign. An election for one student to serve on the board as a Student Director must be held within 8 weeks of that vesting date and the resignations take effect once that election has taken place. At the first meeting of Directors following the election, they will appoint the student duly elected as a Student Director.

We followed the pragmatic route of appointing elected HISA representatives to the Transition Board and rather than duplicating election processes we might wish to continue to do this in future. In this case we should amend our articles to reflect this and seek to appoint the HISA president (or nominated elected UHI representative) and HISA depute (Shetland) in the articles.

In regard to appointment of staff Directors we might take the following approach:

After 1st July NAFC Staff Directors stand down but they remain on the Board until the new appointments are made. After 1st August SC/TS Staff Directors stand down but they remain on the College Board until the new appointments are made. A single election is held to complete by 1st September. At the September

Board new staff Directors are appointed. To accommodate this, a change to the Articles will be required to move the election period from 8 weeks to 10 weeks.

UHI have agreed to support the election process. **The Board needs to consider and agree an election process.**

The Board to note the revisions to the Memorandum and articles which will come to the June Board for approval

Budgets and Funding

Following receipt of the funding letters, as requested the budget for 2021 has been reforecast and an initial draft presented to Finance and General Purposes sub-committee. The budget seeks to capture all present roles and identified expenditure to establish the new College. Following discussion with the regional strategic body it has been agreed that the new forecast will be presented to them at the end of the week for discussion and development.

SFTCT update

At their meeting on 13th May SFTCT noted this is the 30th anniversary of NAFC Marine Centre. Ideas around celebrating this anniversary were shared and this history and the considerable achievements will be further developed in the new College. NAFC Trustees, in wanting to highlight what has been achieved, are keen to ensure that passing the baton to Shetland UHI will both continue and build future success – this is vitally important for Shetland, its industries and the community. They want to see a positive approach that everyone can get behind and look forward with a sense of optimism.

Pensions

As described in the previous update (TB2021-14) the SFTCT caveat on transfer (below*) remains outstanding. Work continues through legal advisors to satisfy this point and, as previously advised to the Transition Board, follow up on the admission to the LGPS will go to F&GP sub-committee as soon as this is available.

We await a response from SPPA on joining them as a new employer, we have previously received reassurances that existing members of the scheme can transfer with the approval of the minister.

*‘*2. The position with regard to the cessation costs of pension for SFTCT, including deferred and active pensioners, will be clarified to ensure that there is no ongoing liability to the Trust;’*

TUPE processes

Formal TUPE consultations are underway for Shetland College and Train Shetland and formal meetings are planned for NAFC Marine Centre. ELI information has been received for NAFC marine centre and is being reviewed. ELI information has been formally requested for Shetland College and Train Shetland.

Legal due diligence

Legal due diligence is underway on the information provided by all parties.

Workstreams

Separately reported (TB2021-19 MWG May update) are the activities of workstreams that have been developed for various activities required for the new College. As previously noted, truncated phasing of transfers makes activities related to Finance and HR workstreams challenging. Additional resource has been identified to support the HR workstream and finance remains under review.

The board is invited to review these activities and note the revised timeline.

Table 1. Activities to Merger (updated from TB2021-14)

Activity	NAFC Marine Centre	Shetland College/SIC	Shetland UHI
Confirmation of Shetland UHI's Charitable Status			Complete
Assurances on Shetland UHI's future funding and sustainability			Complete
Confirmation that Shetland UHI has suitable banking facilities in place			Complete
Confirmation that Shetland UHI is an assigned partner of UHI			Approval received for partner status within UHI when a transfer is made into the new College. Assigned status will not be achieved until after vesting but all requirements being addressed in formation of Shetland UHI
Assurance that all necessary systems, processes, policies and procedures necessary for the effective operation of Shetland UHI and support of staff are in place	Contribution of staff to development of shared systems (finance, HR, academic admin etc.) and ways of working	Contribution of staff to development of shared systems (finance, HR, academic admin etc.) and ways of working	Facilitation of workstreams to develop shared systems (finance, HR, academic admin etc.) and ways of working
Updated Due Diligence information	Updated information being uploaded	Updated information uploaded	Review underway
Details of assets and liabilities transferring to Shetland UHI	Lists to be provided	Lists to be provided	Review of information and taking action as required
Merger Agreement/Asset Transfer Agreement	In draft	Requirements to be provided	Review of and approval of agreements
Timescale for TUPE process	Timescales identified	Timescales identified TB2020-19	Drafted to support timescales identified by joining organisations

Annex 1

College Merger Timeline – A Staged Approach V4

Introduction

The latest update received from Scottish Funding Council (SFC) indicated that ministerial approval was not required for formation of Shetland UHI as it is currently constituted. As such the Scottish Parliamentary elections should not provide any interruption to process. Following receipt of confirmation of funding for the new College through UHI we are working to a vesting date of 30th June for NAFC Marine Centre activities and 31st July for Shetland College and Train Shetland activities.

However, we need to acknowledge the uncertainty due to the Covid 19 pandemic and the recent UHI cyber incident.

The Stages:

1. **Establish the Chair and Board of Shetland UHI** – initially to function as a “Transition Board” with authority to act for the new college through the remaining stages of the transition process. This would include creation of the new board; appointment of an interim chair; and approval of the Memorandum and Articles of Association **(completed)**
2. **Principal Designate and immediate support staff move to Shetland UHI** – second staff from SIC and NAFC to Shetland UHI to establish the executive function of Shetland UHI with staff retaining security of employment through their own organisations until their date of transfer **(in progress)**
3. **Shetland UHI to achieve charitable status and be able to receive charitable funding** – approval of the application to OSCR need to be received as well as banking facilities available – **(complete)**
4. **Merger agreement/Asset transfer agreement in place between SFTC and Shetland UHI (in draft)**
5. **Wind up NAFC transferring all staff and activities under TUPE to Shetland UHI (underway)**
6. **Joint management arrangements established between SIC and Shetland UHI**
7. **SIC transfer Shetland College and Train Shetland staff and activities under TUPE to Shetland UHI on the Vesting date of the merged college (underway)**
8. **New commercial and partnership relationships between SIC and Shetland UHI established**
9. **Shetland UHI undertake any restructuring including 2nd Tier Management after Vesting**