

## **Item: 9**

### **Orkney Towns Board: 12 May 2025**

#### **Memorandum of Understanding**

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## **1. Overview**

- 1.1. The purpose of this report is to provide a summary of the revisions made to the Memorandum of Understanding (MoU) since the previous discussion, ensuring the Board has an opportunity to review and agree on the final draft version before it is prepared for signature.

## **2. Recommendations**

- 2.1. It is recommended that members of the Orkney Towns Board:
  - i. Review the changes made to the MoU.
  - ii. Discuss any further amendments before finalising the draft version for signature.

## **3. Background**

- 3.1. During the Board meeting on 7 February 2025, it was agreed that a MoU would be established between the Orkney Towns Board and Orkney Islands Council to outline service arrangements.
- 3.2. A draft version of the MoU was shared with Board members at an informal meeting on 10 April 2025. During this meeting, it was agreed that the following amendments should be incorporated into the draft:
  - Details outlining the apportioned funds to the Council
  - A clearer definition of the “accountable body” when referencing the Council.
  - Details regarding the function of forward funding through loans from the Council’s reserve funds.
- 3.3. Under the section “Roles and Responsibilities of the Parties”, the definition of “accountable body” has been expanded to provide clearer guidance on the role of Orkney Islands Council in managing the Plan for Neighbourhood funds. The revised wording states: “As the accountable body, the Council is responsible for ensuring that funds are used appropriately, with robust financial management, effective

governance, and full compliance with relevant UK Government guidance. The accountable body is defined as the organisation that assumes legal and financial responsibility for the funding awarded.”.

- 3.4. This clarification ensures the Council is responsible for governance and legal oversight, while the Orkney Towns Board retains overall responsibility for determining how the funds are delivered in alignment with the agreed priorities and programme objectives.
- 3.5. The apportioned costs for financial year 2024/2025 were confirmed by Head of Enterprise and Economic Growth and approved by Chair of the Board. These are as follows:

| <b>Service</b>           | <b>Cost</b> |
|--------------------------|-------------|
| Chief Executive’s Office | £3,224      |
| Economic Development     | £26,063     |
| Finance                  | £2,187      |
| Legal                    | £3,036      |
| Democratic Services      | £763        |
| Communications           | £2,367      |
| Committee Services       | £3,007      |
| Procurement              | £2,056      |
| Human Resources          | £945        |
| Total                    | £43,653     |

- 3.6. It is anticipated that the apportioned costs will decrease in coming years as an Economic Development post is now in place. An annual review of the MoU will allow for adjustments based on changes in the apportioned costs.
- 3.7. In relation to forward funding via loans from the Council’s reserve funds, discussions with the Head of Finance clarified that such loans would incur an estimated interest rate of 7.7% upon repayment.
- 3.8. These changes have been incorporated into the updated draft of the MoU, which is attached as Appendix 1. With final approval from the Board members and the Council’s Legal Services, the MoU will be ready for signatures.

**MEMORANDUM OF UNDERSTANDING**

between

**ORKNEY ISLANDS COUNCIL**

and

**ORKNEY TOWNS BOARD**

in relation to

the UK Government's Plan for Neighbourhood Programme

## MEMORANDUM OF UNDERSTANDING

between

- (1) **ORKNEY ISLANDS COUNCIL**, established by the Local Government etc. (Scotland) Act 1994, having its principal offices at School Place, Kirkwall, KW15 1NY (the “**Council**”); and
- (2) **[STEPHEN HAGAN], MEMBER and CHAIR of the ORKNEY TOWNS BOARD**, an unincorporated association, [address] (the “**Towns Board**”),

and each referred to as a “**Party**” or together the “**Parties**”.

### BACKGROUND:

- A. In March 2024, Orkney Islands was designated as a region participating in the UK Government’s Long- Term Plan for Towns programme, which involves the Council receiving grant funding from the UK Government for the purpose of investing in and regenerating the Orkney Islands (the “**Project**”).
- B. The Towns Board has been formed as a requirement of the Project.
- C. In March 2025, the UK Government introduced the Plan for Neighbourhoods prospectus, which supersedes the Long-Term Plan for Towns programme and outlines the new guidelines for the allocation and use of the grant funding.
- D. The Parties wish to enter into this Memorandum of Understanding (“**MoU**”) in order to record the basis on which they will collaborate in connection with the Project and to set out their respective roles and responsibilities.

### IT IS AGREED AS FOLLOWS:

#### 1. PURPOSE

- 1.1 This Memorandum of Understanding (“**MoU**”) sets out:

- (a) the key objectives of the Project;
- (b) the principles of collaboration; and
- (c) the respective roles and responsibilities the Parties will have during the Project.

#### 2. KEY OBJECTIVES FOR THE PROJECT

- 2.1 The Parties shall undertake the Project to achieve the key objectives set out in **Page 7 (“Key Objectives”)**.

#### 3. Principles of collaboration

The Parties agree to adopt the following principles when carrying out the Project ("**Principles**"):

- (a) Establish and adhere to the terms of this MoU to ensure that activities are delivered and actions taken as required;
- (b) be accountable. Take on, manage and account to each other for performance of the respective roles and responsibilities set out in this MoU;
- (c) be open. Communicate openly about major concerns, issues or opportunities relating to the Project;
- (d) learn, develop and seek to achieve full potential. Share information, experience, materials and skills to learn from each other and develop effective working practices, work collaboratively to identify solutions, eliminate duplication of effort, mitigate risk and reduce cost;
- (e) adhere to statutory requirements and best practice. Comply with applicable laws and standards including public procurement rules, subsidy control rules, data protection and freedom of information legislation;
- (f) act in a timely manner. Recognise any aspects of the Project which are time-critical; and
- (g) act in good faith to support achievement of the Key Objectives and compliance with these Principles.

#### **4. MEETINGS OF THE REPRESENTATIVES**

4.1 Each Party shall appoint and maintain in place for the duration of this MoU a representative who shall have the authority to act on behalf of that Party on matters relating to this MoU (each a "**Representative**"). Either Party may, by prior written notice to the other Party, appoint a new or an alternate Representative.

4.2 The Parties' respective Representatives as at the commencement of this MoU are as follows:

|                         |                 |
|-------------------------|-----------------|
| Council Representative: | Name:<br>Email: |
| Board Representative:   | Name:<br>Email: |

4.3 The Parties' respective Representatives shall attend regular meetings during this MoU to discuss the progress of the Project, issues requiring further assistance from the Parties and progress planned. Such meetings will be held on dates and times agreed between the Parties from time to time and shall be attended by such other officers of the Council or members of the Board as the Parties agree from time to time.

## **5. ROLES AND RESPONSIBILITIES**

- 5.1 The Parties shall undertake their respective roles and responsibilities as set out in the Schedule for this MoU.
- 5.2 The Board acknowledges that the Capacity Funding and the Project Funding (as such terms are defined in the schedule to this MoU) must be spent by the Council in compliance with the law (including procurement law and subsidy control law), the Council's internal rules and the UK Government's terms on which the funding has been provided to the Council. The Board shall consult with the Council on these matters prior to making decisions in relation to how Capacity Funding and Project Funding shall be spent. Where the Council considers that a decision of the Board would require the Council to enter a contract or spend Capacity Funding or Project Funding in breach of any of these rules, the Council will not be obliged to implement such decision, and in such case the matter will be escalated in accordance with clause 6 of this MoU.

## **6. ESCALATION**

- 6.1 If either Party has any issues, concerns or complaints about the Project, or any matter in this MoU, that Party shall notify the other Party, and the Parties shall then seek to resolve the issue by a process of consultation. If the issue cannot be resolved within a reasonable period, the matter shall be escalated to the Representatives for a resolution.
- 6.2 If the Parties' Representatives cannot agree on a resolution, then a separate meeting will be held between the Chair of the Board and either the Head of Enterprise and Economic Growth of the Council (or their respective nominee), who shall endeavour to agree on the appropriate course of action to take.

## **7. COMPLAINTS**

- 7.1 If the Board receives any formal inquiry, complaint, claim or threat of action from a third party in relation to the Project (including a request under the freedom of information legislation), the matter shall be promptly referred to the Representatives.

## **8. TERM AND TERMINATION**

- 8.1 This MoU shall commence on the last date of signature by the Parties and shall expire on completion of the Project.
- 8.2 Either Party may terminate this MoU by giving at least one month's notice in writing to the other Party at any time.

## **9. STATUS**

- 9.1 This MoU is not intended to be legally binding, and no legal obligations or legal rights (whether under the law of contract or otherwise) shall arise between the Parties from this MoU.
- 9.2 Nothing in this MoU is intended to, or shall be deemed to, establish any partnership or joint venture between the Parties, constitute either Party as the agent of the other Party, nor authorise either of the Parties to make or enter any commitments for or on behalf of the other Party.

## **10. GOVERNING LAW AND JURISDICTION**

This MoU shall be governed by and construed in accordance with Scottish law and, without affecting the escalation procedure set out in clause 6, each Party agrees to submit to the exclusive jurisdiction of the courts of Scotland.

This Memorandum of Understanding is signed by the Parties as follows:

**Signed for and on behalf of the Council:**

**Signed for and on behalf of the Orkney Towns Board:**

Signature:

Signature:

Name:

Name:

Position:

Position: Member and Chair of Orkney Towns Board

Date:

Date:

This is the schedule referred to in the foregoing Memorandum of Understanding between the Orkney Islands Council and [Stephen Hagan], Member and Chair of the Orkney Towns Board.

## **SCHEDULE**

For the purposes of this Schedule, the following words shall take the following meanings:

|                             |  |
|-----------------------------|--|
| <b>“Capacity Funding”</b>   | funding received by the Council from the UK Government as an RDEL (Resource Departmental Expenditure Limit) grant to meet the costs of setting up the Towns Board and support the Towns Board in developing the Plan for Neighbourhoods;   |
| <b>“Funding Agreement”</b>  | an agreement to be entered into between the Council and the UK Government in terms of which grant funding is paid by the UK Government to the Council to be spent on the delivery of the Long-Term Plan;   |
| <b>“Long-Term Plan”</b>     | <p>a plan consisting of:</p> <ul style="list-style-type: none"><li>(a) a ten-year strategic vision for the Orkney Islands setting out where, why and how any Project Funding will be targeted over a ten-year period taking account challenges and opportunities; and</li><li>(b) a four-year investment plan, outlining the interventions the Towns Board wishes to pursue within each of the investment priorities across each three-year period of the programme, how Project Funding will be indicatively allocated to specific intervention areas, when interventions will be delivered, the proposed route to market (where appropriate) and the management arrangements for the Project Funding,</li></ul> <p>to be prepared following the UK Government’s guidance in relation to the Project and as updated by the Board from time to time;</p> |
| <b>“Project Funding”</b>    | funding received by the Council from the UK Government under the Funding Agreement;  |
| <b>“Terms of Reference”</b> | the internal rules of the Towns Board setting out how the Board operates, including how decisions of its members are to be made, as updated and approved by the Board from time to time.   |



## **THE KEY OBJECTIVES OF THE PROJECT**

- The Orkney Towns Board has been formed to deliver the Plan for Neighbourhoods Programme. The Board, working with the local authority, is responsible for producing a 10-year Regeneration Plan for their area, setting out the activity that will be pursued to achieve the 3 strategic objectives of this programme:
- - Thriving places
  - Stronger communities
  - Taking back control

The Town Board's remit is to:

- Define the vision and set the strategy for the Orkney Neighbourhoods, and drive priorities for investment, in conjunction with the local community;
- Develop and agree an evidence-based Long-Term Plan for the Orkney Neighbourhoods (10 years);
- Develop and agree 4-year Investment Plans, containing a clear programme of interventions, that deliver the Long-Term Plan;
- Use the funding available to it to ensure that the Long-Term Plan should reflect local priorities and be co-designed with communities, businesses and residents, drawing on available evidence and data;
- Thereafter to review and monitor the milestones and outcomes of the Long-Term Plan and to roll-forward the Investment Plans;

Co-ordinate resources, attract investment and influence stakeholders

## **ROLES AND RESPONSIBILITIES OF THE PARTIES**

### **Roles and Responsibilities of the Council**

The Council will act as the accountable body in relation to the delivery of the Plan for Neighbourhoods, in respect to the fact that it is the organisation which will enter into the Funding Agreement. As the accountable body, the Council is responsible for ensuring that funds are used appropriately, with proper financial management, governance, and compliance, in line with UK Government guidance which defines an accountable body as the organisation that takes responsibility for the legal and financial management of funding awarded.

Subject to the Towns Board approving an appropriate allocation of the Capacity Funding and, thereafter the Project Funding, to meet the Council's costs and expenses (including internal staffing and support costs) associated with undertaking the undernoted roles and responsibilities in relation to the Project, the Council shall:

1. Provide an Economic Development Officer to support the Board with undertaking services as follows:
  - a. Provide progress reports to the Towns Board in relation to delivery of the Project design, planning and analysis of community engagement;
  - b. Assisting in the facilitation of workshops, sub-groups etc;
  - c. preparation of Towns Board Reports;
  - d. preparation of the Long Term Plan and the Four-Year Investment Plan as directed by decision of the Towns Board, but subject always to compliance with the law (including procurement law and subsidy control law), the Council's internal rules and guidance from the UK Government in relation to the Project;
  - e. procurement support;
  - f. subsidy control support;
  - g. design and delivery of grant programmes; and
  - h. undertaking financial checks in relation to grant applicants, including adherence to the Council's Following the Public Pound policy and completing subsidy control risk assessments.
2. Provide a secretariat service to the Towns Board to undertake services as follows:
  - a. organising formal meetings of the Towns Board, including venues, invitations etc;
  - b. preparation of meeting papers (agenda, minutes, reports, presentations), and timely publication in line with transparency guidance; and
  - c. responding to queries from members of the Towns Board concerning their role on the Towns Board and the Terms of Reference by phone and email.
3. Meet the travel and other reasonable expenses of the members of the Towns Board, in accordance with the Council's Policy on Travel and Subsistence.
4. Capacity Funding: Enter into contracts with third parties in order to support development of the Long-Term Plan as decided by the Towns Board.
5. Project Funding: Enter into contracts with third parties in order to deliver the Long-Term Plan as decided by the Towns Board.
6. Gather monitoring information in relation to the delivery of the Project as required by the Funding Agreement and the Council's internal requirements.

### **COUNCIL COST RECOVERY**

Apportioned costs will initially be covered by Capacity funding and then provision made from revenue fund allocations.

For General departmental cost recovery, the Council will charge the programme Apportioned Costs. Based on 2024/25 these were determined as £43,653 charged across the following Council service areas

- Chief Executive's Office
- Economic Development

- Finance
- Legal
- Democratic Services
- Communications
- Committees
- Procurement
- HR

Costs of providing a dedicated staff resource will be recovered based on salary of a FTE Economic Development Officer (Council Graded H to I) including Pension, NI, Distant Islands Allowance and Apprenticeship Levy (Full cost of a Grade H-I post at 2024/25 values was £47,700 to £58,700).

A repayable advance funding facility will be available from the Council to enable project funding in advance of the UK Government funding profile. This advance will be subject to an estimated 7.7% charge to cover the return on the investment target for the Strategic Reserve Fund. The Council would look at the merits of any loan request in its own right and where there is demonstrable benefit to the Council the rate of interest may be negotiated.

### **Roles and Responsibilities of the Towns Board**

1. The Towns Board shall ensure that each of its members complies with the Terms of Reference while participating in the activities of the Towns Board.
2. The Towns Board shall ensure that its decisions in relation to the Project comply and are undertaken in accordance with the Terms of Reference.
3. The Towns Board shall endeavour to approve the Long-Term Plan and make other approvals or decisions it may be required to make in relation to the Capacity Funding\* and the Project Funding (as notified by the Board by the Council from time.