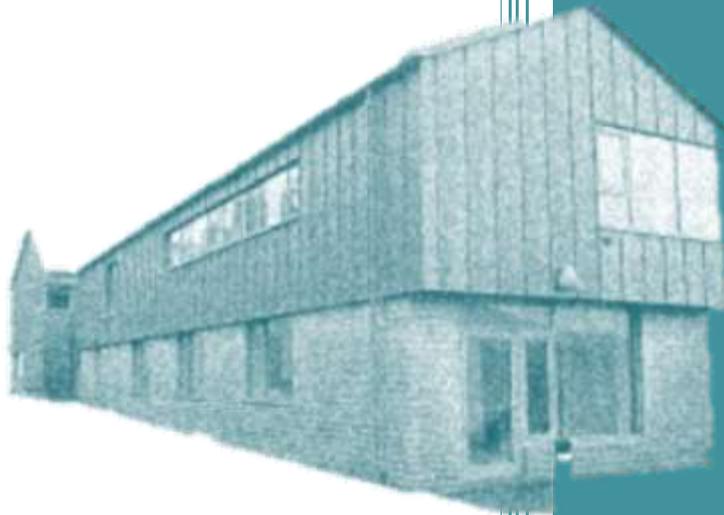




**The Orkney Partnership**

# **Property Asset Management Future Property Sharing Protocol**



Version 1.4  
December 2018



# The Orkney Partnership

**ORKNEY ISLANDS COUNCIL**

**NHS Orkney**

**HIE**  
Highlands and Islands Enterprise  
Iomairt na Gàidhealtachd 's nan Eilean

**POLICE SCOTLAND**  
Keeping people safe

**SCOTTISH FIRE AND RESCUE SERVICE**  
Working together for a safer Scotland

**Scottish Natural Heritage**  
Dualchas Nàdair na h-Alba  
All of nature for all of Scotland  
Nàdar air fad airson Alba air fad

**sportscotland**

**SEPA**  
Scottish Environment Protection Agency

**Historic Environment Scotland**  
Shaping our Future  
Working together for Scotland's historic environment

**OHAC** orkney health and care

**University of the Highlands and Islands Orkney College**

**HI TRANS**  
THE HIGHLANDS AND ISLANDS TRANSPORT PARTNERSHIP

**Skills Development Scotland**

**Visit Scotland™**  
Scotland's National Tourism Organisation  
Buidheann Turasachd Nàiseanta na h-Alba

**VAO**  
Supporting The Orkney Communi

**is.** improvement service

**ORKNEY HOUSING ASSOCIATION LIMITED**

**Orkney Community Justice Partnership**

Working together for a better Orkney

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please contact the Community Planning Business Manager  
Telephone 01856 873535 extension 2153  
Email [corporateservices@orkney.gov.uk](mailto:corporateservices@orkney.gov.uk)

## 1. INTRODUCTION

We are in a challenging era for public and community services. The economic situation has created some significant financial challenges leading all organisations to search for efficiencies both within their organisations and together as a community planning partnership. Services also need to change as customer needs and expectations evolve over time. Customer services are becoming increasingly digitalised through developing technologies. For all these reasons, we are becoming increasingly focused on the future of our estates portfolios to ensure they meet our current and future requirements, but no more. Redundant space, property or land without any strategic future is an obvious target to free up revenue maintenance funding and capital receipts.

A shared approach to this challenge offers public service organisations and community agencies the opportunity to co-locate, purchase or lease property from each other through improved information sharing, and plan the development of multipurpose buildings which will improve customer services and reduce revenue overheads. These are very positive reasons for developing a shared approach to property asset management planning. However, we also know that opting for this approach also brings its challenges and dilemmas. It requires sustained trust and bold, creative thinking to achieve these efficiencies. Some basic principles have therefore been agreed which form the core of our joint approach.

## 2. PRINCIPLES

1. Board/Council members, senior managers and, where applicable, officers and staff are committed to working together to achieve better value and customer service through shared planning on property assets held or made available for service delivery.
2. The partners are committed to sharing information in principle, subject to commercial, political or security restrictions.
3. Confidentiality will be respected in principle and through a confidentiality agreement.
4. Freedom of Information matters will be addressed through the confidentiality agreement.

## 3. AIMS

1. To support the public sector and community agencies in Orkney to improve services through better use of buildings and other property assets by working together in planning use and disposal.
2. To ensure the most efficient use of funding and statutory obligations to secure best value.
3. To promote a more innovative and creative approach to property use and development.

4. To improve the experience for our service users by, where possible, seeking to co-locate services that have a logical interaction.

## 4. FRAMEWORK

1. Partners will share information about their property portfolios, either held or allocated to them with other partners and consent to the inclusion of information relative to such property within a spreadsheet which will be accessible to all partners.
2. The shared information will (subject to commercial, political or security restrictions) include:
  - Location.
  - A short description of each property.
  - Whether there is public access.
  - Whether there is disabled access.
  - Size.
  - Condition.
  - Whether surplus.
  - Whether owned or leased, and if latter, length of lease; type of lease and whether leased in or out.
  - Vacant space.
  - Whether there are meeting rooms.
  - The extent to which it is fit for current purpose or other purpose.
  - Current valuation.
  - Current running costs.
  - Whether there are VC facilities.
  - Whether it has IT connectivity available for staff.
  - Whether there is public/guest WiFi.
  - Whether there are any future plans for the property.
  - General comments box.
3. A collective asset map will be maintained through information made available by all partners. This map will show the property assets held or allocated for use of each partner throughout Orkney enabling a view of the particular partnership property assets in any location to allow for future planning.
4. Partners will be responsible for ensuring that the information accessed for the purposes of inclusion on the spreadsheet and collective asset map is kept up to date.
5. Partners will share as much information as is feasible to achieve the aims of the protocol, subject to commercial, political or security restrictions subject always to there being no undue burden on the partners.
6. Any partner wishing to share, with another partner, information which is not in the public domain will require to sign a confidentiality agreement in the form attached

as the Appendix hereto and shall, in addition, comply with and adhere to the terms of paragraphs 7 and 8 of this protocol.

7. The status of information will be clearly identified so that all managers who have access to the information will understand the nature of any restrictions.
8. Information will be circulated only to an agreed group of staff within each agency, both to facilitate the aims of the protocol and to protect the confidentiality of information as relevant.

## APPENDIX

### CONFIDENTIALITY AGREEMENT

This Confidentiality Agreement (the “**Agreement**”) is entered into between:

- (A) Orkney Islands Council, constituted by the Local Government (Scotland) Act 1973 as amended and the Local Government etc. (Scotland) Act 1994 and having its principal offices at Council Offices, School Place, Kirkwall, Orkney, KW15 1NY (“**the Council**”); and
- (B) Orkney Health Board, a statutory body constituted pursuant to the National Health Service (Scotland) Act 1978 (as amended) and having its principal office at NHS Orkney, Garden House, New Scapa Road, Kirkwall, Orkney, KW15 1BQ (“**NHS Orkney**”).
- (C) Highlands and Islands Enterprise, established by the Enterprise and New Town (Scotland) Act 1990 and having its Principal Office at An Lochran, 10 Inverness Campus, Inverness, IV2 5NA (“**Highlands and Islands Enterprise**”).
- (D) The Chief Constable of the Police Service of Scotland, appointed in terms of section 7 of the Police and Fire Reform (Scotland) Act 2012 and having his headquarters at Tulliallan Castle, Kincardine, Fife, FK10 4BE (“**the Chief Constable**”) (to whom property is made available for police functions by the Scottish Police Authority, constituted in terms of Section 1 of the Police and Fire Reform (Scotland) Act 2012 and having its principal place of business formerly at Elphinstone House, 65 West Regent Street, Glasgow G2 2AF and now at 1 Pacific Quay, Glasgow G51 1DZ) .
- (E) Scottish Fire and Rescue Service a body corporate established by statute namely, the Fire (Scotland) Act 2005, as amended by the Police and Fire Reform (Scotland) Act 2012 and having its Headquarters at Westburn Drive, Cambuslang, G72 7NA (“**Scottish Fire and Rescue Service**”).
- (F) Orkney Housing Association Limited, a registered Scottish Charity (Registered Number SC031734), registered under the Co-operative and Community Benefit Societies Act 2014 (Registered Number 2201RS) and registered as a Registered Social Landlord with the Scottish Housing Regulator (Registered Number 164) whose registered address is 39a Victoria Street, Kirkwall, Orkney, KW15 1DN (“**Orkney Housing Association Limited**”).
- (G) Orkney Health and Care, being a body corporate (Integration Joint Board) established by Order under Section 9 of the Public Bodies (Joint Working) (Scotland) Act 2014 (“**Orkney Health and Care**”).
- (H) The Skills Development Scotland Co. Limited, a company registered in Scotland with company number SC202659 and having its registered office at Floor 1, Monteith House, 11 George Square, Glasgow, G2 1DY (“**SDS**”)

collectively referred to as the Parties, and individually as a Party.

WHEREAS:

(A) The Parties are committed to working together to achieve better value and customer service through shared planning on partnership property assets (the “**Disclosure Purpose**”); and

(B) The Parties intend to share information in pursuit of the Disclosure Purpose.

NOW THEREFORE, in recognition and in consideration of the above and the mutual covenants contained herein, the Parties agree to be strictly bound by the terms and conditions set forth below.

## 1. **Secrecy of the Confidential Information**

- (a) The receiving Party (“**Receiver**”) shall hold the disclosing Party’s (“**Discloser**”) Confidential Information (as defined below) in confidence using the same degree of care it uses to protect its own confidential information, and shall use the Confidential Information only in connection with the Disclosure Purpose. Unless otherwise permitted hereunder, the Receiver shall not directly or indirectly disclose the Discloser’s Confidential Information, except that the Receiver may disclose the Confidential Information to those employees, officers, directors, members, agents, consultants and representatives of the Receiver or its affiliates (collectively, the “**Representatives**”) who have a need to know such information and who have been advised of the confidential nature of said information and who are bound to keep said information confidential on terms that are substantially similar to the obligations of said Receiver under this Agreement.
- (b) For purposes of this Agreement, “**Confidential Information**” shall mean, but not be limited to, all property-related information, trade secrets, process knowledge, know-how, specifications, drawings and proprietary data and technical data of any kind of the Discloser, which is communicated to the Receiver, or to which the Receiver is given access, whether furnished before or after the date of the Agreement, regardless of the form in which such information is communicated or maintained.
- (c) As used herein, the term “Confidential Information” does not include information which (i) is or becomes publicly known through no wrongful act of the Receiver; (ii) is rightfully received from a third party, provided that such third party was not bound by a confidentiality agreement with respect to such information; (iii) is disclosed to any government body or other authority pursuant to a lawful requirement of such body or authority or as required by law; or (iv) is approved for release, use or disclosure by previous written authorisation of the Discloser.
- (d) If the Receiver is required by law or a legal or regulatory process (including any applicable provision of the Freedom of Information (Scotland) Act 2002 or the Environmental Information (Scotland) Regulations 2004) to disclose any of the Confidential Information of the Discloser, the Receiver shall promptly notify the Discloser in writing. In any event, the Receiver shall furnish only that portion of such Confidential Information which it is legally obliged to disclose. Notwithstanding any such disclosure, any such Confidential Information so

disclosed shall, for all other purposes, continue to be treated as Confidential Information for the purposes of this Agreement.

- (e) The Receiver understands and acknowledges that neither the Discloser nor its directors, officers, members, employees, agents, advisers, lawyers or accountants give any representation or warranty, express or implied, as to the accuracy or completeness of the Confidential Information or any other information furnished to the Receiver in the course of discussions concerning the Disclosure Purpose, nor have any liability to the Receiver or any other person resulting from their use of or reliance on such information. The Receiver agrees that it shall make and solely rely on its own independent investigation, judgment and assessment of the information. Furthermore, neither the Discloser nor its directors, officers, members, employees, agents, advisers, lawyers or accountants undertake any obligation to update any such information or to provide the Receiver with access to any additional information.
- (f) The Receiver shall use the Confidential Information for the Disclosure Purpose only and shall not use or appropriate the Confidential Information for its own benefit for any other project or otherwise in any other manner without the prior written consent of the Discloser.

## **2. Status of Agreement**

Nothing contained in this Agreement shall be construed to obligate any Party to enter into any kind of business or to execute any other agreement. The disclosure of Confidential Information pursuant to this Agreement, and any prior or future discussions, evaluations or other communications amongst the Parties, shall not confer any right nor impose or create any obligation on the Parties other than those expressly agreed to in this Agreement or in a future written agreement amongst the Parties.

## **3. Ownership/Intellectual Property**

The ownership rights to the Confidential Information, as well as any intellectual property rights connected with the Confidential Information, shall at all times vest in the Party originally owning such rights over the Confidential Information.

## **4. Return or Destruction of Confidential Information**

The Receiver agrees that it and its Representatives shall return or destroy upon the Discloser's written request (and shall so certify if requested), and in any event if the Receiver no longer wishes to participate in the Disclosure Purpose, any and all documents (including notes, analysis or memoranda prepared by the Receiver or its Representatives) containing any Confidential Information and all copies thereof which shall have been made by or on behalf of the Receiver or its Representatives and/or shall take all reasonable steps to expunge all Confidential Information from any computer, word processor or other device containing information provided that the Receiver and its Representatives shall not be required to return or destroy copies which they are required by law or regulation to retain. Confidential Information which is held in electronic form shall be deemed destroyed when deleted from local hard drives

so long as no attempt is made to recover such information from back-up tapes, servers or other sources.

## 5. Assignment

This Agreement may not be assigned, novated or transferred by any Party in any way without the prior written consent of all of the other Parties.

## 6. Notices

Any notices to be given hereunder by any Party to the others shall be sent by registered post or courier to the other Parties at the addresses stated below:

For Orkney Islands Council: Gavin Mitchell, Solicitor to the Council Orkney Islands Council, Council Offices, School Place, Kirkwall, Orkney, KW15 1NY or such other party as may be intimated in substitution therefor.

For NHS Orkney: Gerry O'Brien, Chief Executive, NHS Orkney, Garden House, New Scapa Road, Kirkwall, Orkney, KW15 1BQ or such other party as may be intimated in substitution therefor.

For Highlands and Islands Enterprise: Graeme Harrison, Area Manager, Highlands and Islands Enterprise, 14 Queen Street, Kirkwall, Orkney, KW15 1JE or such other party as may be intimated in substitution therefor.

For the Chief Constable of the Police Service of Scotland: Senior Asset Manager, Estates, Police Scotland Clyde Gateway, 2 French Street, Dalmarnock, Glasgow, G40 4EH.

For Scottish Fire and Rescue Service: Area Manager, Western Isles, Orkney and Shetland, Scottish Fire and Rescue Service, 16 Harbour Road, Inverness, IV1 1TB.

For Orkney Housing Association Limited: Craig Spence, Chief Executive, 39a Victoria Street, Kirkwall, Orkney, KW15 1DN or such other party as may be intimated in substitution therefor.

For Orkney Health and Care: Sally Shaw, Chief Officer, Orkney Health and Care, Council Offices, School Place, Kirkwall, Orkney, KW15 1NY, or such other party as may be intimated in substitution therefor.

For SDS: Head of Region for Operations on Orkney Islands (Anthony Standing), 1-5 Church Street, Inverness, IV1 1DY, or such other party as may be intimated in substitution therefor.

Any notices shall be deemed to be received on the day of actual receipt at the address stated above if the day of such receipt is a working day. If the day of actual receipt is not a working day, any notice shall be deemed to be received on the first working day thereafter.

## 7. Duration

This Agreement and the obligations of confidentiality and non-use imposed therein upon the Parties shall remain effective for a period of 10 years from the last date of execution hereof. Clauses which expressly or by implication survive expiry or

termination of the Agreement shall continue in full force and effect after the expiry or termination of the Agreement.

### 8. Entire Agreement

This Agreement constitutes the entire understanding and agreement of the Parties with respect to the subject matter set forth herein, and supersedes all prior or contemporaneous agreements, arrangements and understandings, whether written or oral, of the Parties.

### 9. Counterparts and Amendments

- (a) This Agreement may be executed in counterparts.
- (b) This Agreement may not be amended and none of the provisions of this Agreement may be waived except by an instrument in writing signed by the Parties.

### 10. Severability

If at any point during the Agreement period any one or more of the provisions of this Agreement are found to be, or become, illegal, invalid or unenforceable in any respect under law, that provision(s) shall be struck from the Agreement and the validity, legality and enforceability of this remaining provisions shall not be in any way affected or impaired.

### 11. Governing Law and Jurisdiction

The Parties agree that this Agreement shall be construed, interpreted, and applied in accordance with the laws of Scotland. Any disputes or claims arising out of or in connection with this Agreement shall be subject to the exclusive jurisdiction of the Scottish courts.

IN WITNESS WHEREOF this Agreement consisting of this page and the preceding seven pages is executed as follows:

FOR AND ON BEHALF OF Orkney Islands Council Signature: Name: Title: Date:	In the presence of: Witness Signature: Witness Name: Address: Date:
FOR AND ON BEHALF OF NHS Orkney Signature: Name: Title: Date:	In the presence of: Witness Signature: Witness Name: Address: Date:

<p>FOR AND ON BEHALF OF Highlands and Islands Enterprise</p> <p>Signature: Name: Title: Date:</p>	<p>In the presence of: Witness Signature: Witness Name: Address: Date:</p>
<p>FOR AND ON BEHALF OF Police Scotland</p> <p>Signature: Name: Title: Date:</p>	<p>In the presence of: Witness Signature: Witness Name: Address: Date:</p>
<p>FOR AND ON BEHALF OF Scottish Fire and Rescue Service</p> <p>Signature: Name: Title: Date:</p>	<p>In the presence of: Witness Signature: Witness Name: Address: Date:</p>
<p>FOR AND ON BEHALF OF Orkney Housing Association Limited</p> <p>Signature: Name: Title: Date:</p>	<p>In the presence of: Witness Signature: Witness Name: Address: Date:</p>
<p>FOR AND ON BEHALF OF Orkney Health and Care</p> <p>Signature: Name: Title: Date:</p>	<p>In the presence of: Witness Signature: Witness Name: Address: Date:</p>
<p>FOR AND ON BEHALF OF The Skills Development Scotland Co. Limited</p> <p>Signature: Name: Title: Date:</p>	<p>In the presence of: Witness Signature: Witness Name: Address: Date:</p>