

Trust Public Papers - 14/12/18

MEETING
14 December 2018 10:00

PUBLISHED
13 December 2018

Agenda

<i>Location</i>	<i>Date</i>	<i>Owner</i>
Garthspool Board Room, Lerwick	14/12/18	
1. Hold as read the circular calling the meeting		Chair
2. Apologies for Absence		Chair
3. Declaration of Conflicts of Interest, if any		Chair
4. Public Section of the Minutes of Meeting held on 2nd November, 2018		Chair
4.1. adoption		
4.2. matters arising (not otherwise on the agenda)		
4.3. Action Points		
5. Chief Executive's Report		MR
6. Departmental Reports - For Information		
6.1. Development		DC
6.2. Operations		AJ
6.3. Engagement		SM
7. Reports to Trustees		
7.1. Shetland Museum Reaccreditation & Collection Policy		SM
7.2. Hay's Dock Cafe Restaurant Ltd.		MR
7.3. Truck Cartell Legal Action		ARMC Chair
8. Any Other Competent Business		
IN PRIVATE		
9. Private Section of the Minutes of Meeting held on 2nd November, 2018		Chair
9.1. adoption		
9.2. matters arising (not otherwise on the agenda)		
9.3. Action Points		
10. Chief Executive's Report - private section		MR

Agenda

<i>Location</i>	<i>Date</i>	<i>Owner</i>
Garthspool Board Room, Lerwick	14/12/18	
11. Business Services		
11.1. Management Accounts & Current Position		TL
11.2. 2019/20 Draft Budgets		TL
11.3. HR Update		TL
11.4. ICT Update		TL
12. Hay's Dock Cafe Restaurant Ltd.		MR
13. Reports to Trustees		
13.1. Project Madhatter		MR
13.2. Output Reporting		MR
13.3. Cash for Cans Scheme		AJ
13.4. SAT Business Plan & Strategy - update		Chair
14. Audit & Risk Management Committee		Committee Chair
14.1. Draft Minutes of Meeting held on 4th December 2018		
14.2. Draft Expenses Policy		
14.3. Robertsons (Lerwick) Ltd.		
15. Human Resources Committee		Committee Chair
15.1. Draft Minutes of Meeting held on 1st November, 2018		
16. Strategic Issues		AH
16.1. Update on Filling of Trustee Vacancies		
17. Any Other Competent Business		
TRUSTEE ONLY BUSINESS		

Minute of the Public Meeting of Shetland Amenity Trust held at 10.00 a.m. on **Friday 2nd November, 2018** in the Conference Room, Garthspool, Lerwick.

Present: Mrs R. Mackenzie (Chairman)
Mr A. Blackadder
Mr A. Hamilton
Mr R. Jones
Mrs P. Megson
Ms A. Moncrieff
Dr L. Riddell
Mr F. Robertson

In Attendance: Mr M. Roberts (Chief Executive)
Mr D. Cooper (Head of Development)
Miss S. Fullerton (Admin Assistant)
Mr A. Johnson (Head of Operations)
Mrs T. Leslie (Head of Business Services)
Mr C. Cope (Shetland News)
Mr M. Grundon (BBC Radio Shetland)

It was noted that this was the first meeting where papers had been issued to trustees via Board Intelligence. Mrs Carter spoke briefly on the transition to the new system and encouraged trustees to get in touch with any comments or suggestions they may have. (Mrs C. Carter left the meeting)

1. The circular calling the meeting was held as read.

2. **Apologies for Absence**

None.

3. **Declaration of Conflicts of Interest**

Mr Blackadder advised that he would be working on the Halligarth project in the future.

Mr Robertson declared that there were members of his family who were employed by Shetland Amenity Trust.

Mr Roberts reported that all trustees had now completed their declaration of interest forms and he reminded them to notify the Trust of any changes in the future.

4. Minutes of the Public Meeting held on Friday 31st August, 2018

The minutes were approved on the motion of Dr L. Riddell seconded by Mr R. Jones.

Matters Arising:

None.

Action Points from Previous Meetings:

None.

5. Chief Executive's Report

The content of the report circulated with the agenda was noted by trustees.

ICT Migration – Mrs Leslie reported that the migration project was progressing well with Shetland Islands Council (SIC). The hardware audit had been completed and the data audit was 90% complete. The Trust's ICT network was now connected to the SIC's network by fibre and multiple back-ups of data were now being taken. The SIC had commented that they were happy with the legacy servers that the Trust had recently purchased and Mrs Leslie added that cloud data storage would be used for specialist ICT systems. Progress had also been made with the new Electronic Point of Sale system for the museum and this would be installed in December. It had been planned that the migration process would be phased but it had now been agreed that the migration would take place at one time. Copies of the ICT Migration report were made available to Trustees.

Mr Jones referred to data management and suggested that a review should be done of the data register. Ms Moncrieff added that it was important to have a formal document in place for data management. Mr Roberts agreed that once the migration project had been completed, a report would be made available to Trustees.

Sumburgh Head – Mr Roberts highlighted the significant issue of new water penetration at Sumburgh Head. Mr Johnson said that the area had been cordoned off and was now isolated in one room. Meetings would be held with the architect and main contractor when they visit Shetland the following week. Mr Roberts added that the site would not be ready to open for in time for Up Helly Aa in January 2019.

Policies and Procedures – Mr Blackadder commented that he was glad to see Mr Roberts statement regarding drafting policies and procedures that were suitable for an organisation of this size and complexity.

6. Departmental Reports

6.1 Development – Trustees noted the content of the report circulated with the agenda.

UNESCO Global Geopark Revalidation – Mr Cooper advised that the earliest point at which the revalidation visit could take place would be May 2019 but it was more likely that this would take place in July/August 2019. Staff were planning to have everything in place for the revalidation by May 2019 and it was expected that decision of the visit would be made known in December 2019. Mr Roberts advised that Mr Chris Woodley-Stewart, Director of the North Pennines AONB Partnership and UNESCO Global Geopark, would visit Shetland in the spring of 2019 to do a trial assessment visit.

Halligarth Project – Trustees discussed the Scottish Natural Heritage (SNH) Natural and Cultural Heritage Fund and how that could fit with the Halligarth Project. Mr Roberts outlined that individual Unst projects were looking to apply together under one funding application and present their bid to SNH. Mr Roberts concluded that there were lots of opportunities with this fund but the timescales were challenging as completed bids needed to be submitted by April 2019.

Peatlands – Mr Cooper advised that the Trust had won the tender for the Peatland Restoration Feasibility Study funded by SIC.

Woodlands – Mrs Mackenzie commented that she had received a report on the Woodlands Section and she asked that the report be added to Board Intelligence.

6.2 Operations – Trustees also noted the content of this report.

Dr Riddell referred to both the Operations and Development reports and commented that it was amazing to see the amount and variety of work that took place within the Trust. Mr Johnson thanked Mr Cooper for drafting the report in his absence.

7. Reports to Trustees

The content of the report circulated with the agenda was noted by trustees.

7.1 Shetland Environment Group – Mr Roberts referred to the recommendation in the report and said that the group played an important role in bringing agencies together who have a view on the environmental aspects of Shetland. Trustees agreed that the group should continue.

After a discussion on who would be most relevant to sit as Chair, it was agreed that the newly appointed Head of Engagement would be asked to Chair the group and Mrs R. Mackenzie would also attend the meetings when she was available.

Mr Hamilton stated that the group would need to agree its Terms of Reference at its next meeting. Mr Blackadder added that he agreed with Miss H. Moncrieff's comments in the report regarding revisiting the way the group ran and he thought there would be opportunities with reviewing that. Dr Riddell queried the provision of admin support and Mr Roberts said he was comfortable with providing that support.

8. 2018/19 Calendar of Meetings

The calendar of meetings distributed with the agenda was noted.

Mr Blackadder referred to the date for the 2019 AGM and wanted to check that date was correct. Mr Roberts advised that the date for the AGM had been moved to July and A9 Partnership were also in agreement with that date.

9. Any Other Competent Business

None.

The public section of the meeting came to an end at 11.15 a.m. and there was a short break to allow Mr Roberts to give statements to the press.

**SHETLAND AMENITY TRUST
NOVEMBER 2018 MEETING
Public Meeting Action Points**

Action	Item First Raised	Actioner	Target Action Date	Progress
Data Management report to be provided to Trustees.	11/18	MR	On completion of ICT Migration	

public trust action minute 1118

CEO's Report

Author: Mat Roberts Meeting Date: 14th December 2018

Executive Summary

Context

Our [12-month/near-term] goals are:

1. To achieve financial stability
2. To complete staff structure changes
3. Develop a new business strategy and plan
4. Have a staff development programme in place

Our [3-year/longer-term] goals are:

1. Reducing unstructured debt
2. Create a portfolio of commercially successful products
3. Property review implemented
4. Future pipeline in place

In summary, our strategy to achieve our goals is to understand and control our costs, invest in our staff and develop commercial offerings to offset anticipated reductions in core funding.

Questions this paper addresses

1. Are we looking after our people, our customers, our assets and finances and our reputation?
2. Do we have the resources, skills and relationship we need to deliver the plans and commitments we have made?

Conclusion

Our performance in	2018/19 Today	2018/19 Target	Comment
Safety and Security	Amber	Green	Significant progress has been made with Corporate Risk Management and Controls
Customer/Stakeholder Service	Amber (unknown)	Green	Despite closing our Museum Café facility we continue to be popular with our customers
Assets and finance	Amber	Amber	Financial performance stable and has been able to withstand the stress of café closure
Reputation	Amber	Green	Early indications from the staff survey are that we are still regarded as a good employer
Metrics to be developed for all areas			

Input Sought

The Board's assessment of this report is requested.

The Report

1. What is on my mind?

Looking Back

WHAT HAS GONE WELL?

- Leadership Team is complete and beginning to tackle the long term strategic challenges we need to address.
- The Follow the Vikings Roadshow was a success with good ticket sales and positive audience feedback.
- The staff Survey has closed and is being analysed. The first audience for the results will be the All Staff Meeting on 19th December. The word will receive a written report after this.
- Progress has been made on establishing the problem and solution to the water leak in the Stevenson Room at Sumburgh Head Lighthouse.

WHAT HAS NOT GONE WELL?

- Hay's Dock Café and Restaurant (HDCR) was closed in November. The final position will be known once all income and expenditure has been completed.
- Whilst the Trust financial performance is on budget and has been able to withstand the stress of Café closure we are still under pressure and development capacity is limited.

Looking Forward

OPPORTUNITIES?

- The Destination Viking Association is beginning to demonstrate the maturity needed to make the most of the legacy assets from the Follow the Viking's project.
- Strategic Plan and Business model development continues to be the best opportunity we have to clearly establish the future purpose of the Trust and its way of doing business.
- The Wool Week organisation committee has approved the 10th Anniversary legacy proposal which brings together all aspects of the Shetland Textile sector.

RISKS OR CONCERNS?

- Concerns about traditional funding sources continue. Whilst we have an agreed funding programme with the Shetland Charitable Trust for 2019 the level of this support has yet to be confirmed.
- Shetland Islands Council support for our evolving programme of outputs has yet to be confirmed, however discussions about future funding are positive.
- We are coming to the end of the Follow the Vikings project and there are risks associated with the project exit. These risks are heightened by the lack of clarity around the exact manner in which the UK will exit the EU. All measures have been taken to minimise this risk with all project outcomes scheduled to be delivered 29th March.
- Project Tirrick (IT migration): the project is on programme and we expect the migration to be completed this financial year. The pricing of data storage and all legacy systems is still outstanding. This is expected to be resolved before Christmas.
- We are continuing to refresh our policies and procedures on an as needed basis. However this is a significant piece of work and is consuming significant time. A full refresh is not expected to

be complete before the end of 2019.

- Our project pipeline is very sparsely populated and once the FTV project is exited we will have no major projects live.

2. What are the implications?

WHERE DOES THIS LEAVE US?	WHAT ARE THE IMPLICATIONS?
<p>My confidence in the outlook overall is unchanged.</p> <p>The need to change our approach to delivering operations is still testing our capacity and capability.</p> <p>The trust has maintained its ability to cope with the day to day challenges that we have been facing for the last 18 months. These have not reduced.</p>	<p>The medium terms needs of the organisation are now much clearer.</p> <p>The development of a draft Outputs matrix has helped with our budgeting process for 2019/20 as has the work to scope a management information system (Project Madhatter). Providing visibility of performance to all managers across the Trust is vital if we are to maintain a stable financial and delivery position.</p>

Development report

Author: David Cooper Meeting Date: 14th December 2018

Shetland UNESCO Global Geopark

- Draft revalidation first round documents produced.
- Project board initial meeting held
- Further meetings held regarding partnerships with local business and community groups.

Halligarth

- Interpretive plan further developed by CMC. Concept drawings produced. Also working on a draft activities plan.
- Revised conservation plans produced by architects NGR. Revised business plan being produced.
- SAT woodlands squad has produced concept sketches for garden and woodlands development plan.
- HLF application process halted with a view to presenting a more fully developed application in March.
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Follow the Vikings

- FTV roadshow was successfully delivered.
- NB Communication continues to work on the website and has produced a range of specimen pages. Eileen has spent a considerable amount of time collecting and collating content supplied by partners.
- There is an ongoing commitment to work on social media.
- Work continues on the not inconsiderable task of preparing monitoring and financial reports.

Peatlands

- Work continues with the crofting community on peatland restoration.
- We won a contract for work on a Peatland Restoration Feasibility Study covering areas in Northmavine. The woodland squad are currently assisting in peat coring. This work will be funded by SIC.
- We are considering participation in a project examining ways to determine biodiversity on common scattald.

Community Liaison

- Eileen Brooke-Freeman continues to support heritage groups and act as our contact with the Shetland Heritage Association.
- We have met with Hoswick Visitor Centre to advise and potentially assist with their new interpretive displays both internal and external.

Archaeology

- The Archaeology section fulfilled its obligations under the service level agreement for development control.
- Val Turner did further work on progressing our move towards achieving UNESCO World Heritage Status.

Head of Operations

Author: Adam Johnson Meeting Date: Friday 14 December 2018

Property/Property Disposition

The Unst/North Isles workshop and Lighthouse Shore Station Store, Grunay, Skerries have now been sold. Selling of the Hamars is ongoing due to amendments in the deed plan surrounding the property.

Various meetings and site visits to Staney Hill properties were conducted with Shetland Islands Council (SIC) in attendance (Jon Dunn, Economic Development & Contract Manager for SLA and Chris Gadsby, Asset Strategy Manager) to discuss various partnership initiatives and future planning concerning the Museum Store. Lease for the Museum Store is due to expire on 20 November 2023. The store is at maximum capacity and provision for an additional storage facility must be identified.

Sumburgh Head Lighthouse

Groves-Raines Architects and Corramore have both visited SHL and a recent conference call was held. Negotiation is still taking place to establish responsibilities and financial liabilities. Investigation is therefore continuing to factually discover what written agreements were made, including completion certificates and outstanding action points.

Building Management System

Shetland Museum and Archives (SMAA) BMS is currently receiving a full 5-day audit review on its building management system by CC North who are already contracted for its servicing and maintenance. A preliminary meeting was chaired by myself to discuss all issues and concerns with the atmospheric conditions in the Museum predominately relative humidity. Although there are no major concerns, the following are seen as priority:

- A – Replacement of some of the chillers and air handling units.
- B – Training to be done on how to use the software and ensure Laurence Smith (SMAA Facilities Technician) is not the one point of failure.
- C – Establish further understanding of how other systems such as Hanwell and Swegen integrate with BMS.
- D – Integration and ongoing concern of IT migration ensuring a smooth transition of recordable data and moving the BMS PC to the SMAA workshop.

Hay's Dock Café Restaurant

HDRC is currently being decommissioned now that it is no longer trading. A full inventory has been completed along with perishable and non-perishable food and drink. There will be no change to the licence as it covers the Museum and Hay's Dock, although they have been notified of its current closure. J.W. Gray & Co. has agreed to reimburse us for unopened alcohol and 'The String' will purchase some frozen goods.

Lighthouses & Böd Accommodation

Discussions regarding development plans with custodians of their respective Böd or Lighthouse is underway having visited Bressay Lighthouse and Voe House, Walls. Purpose of this is to listen to various issues and ideas that they have and for us to provide a more comprehensive guidance pack

prior to entering the 2019 season. Our ScotGrad Property Development Co-ordinator, Danny Priest, is playing a pivotal role in this populating our property database along with title deeds, utility references and helping me in how we can develop the accommodation and its future proofing.

Registers & Databases

The Risk and Compliance register is continuing to be populated. Although this will continue to be evolved, it is still within its infancy and will be part of the agenda within Leadership and Audit & Risk Management Committee meetings.

The Maintenance Team now have access to a PC within their Staney Hill workshop, thus increasing the efficiency and effectiveness of a facility team that will have access to the new Maintenance log and be able to track requests and respond to ongoing concerns that have been raised.

Shetland Museum - Author: Ian Tait

An impressive donation of a large number of silver prizes from local agricultural societies was received, mostly from the 1920s. Most are medals and trophies for pedigree horses or dogs, and were won by Dr James Bowie, Bixter, who was at the forefront of perfecting livestock breed standards at the time. The prizes were awarded by the Tingwall Show, and few by the Walls Show.

Following confirmation of a generous cash donation from the Wellington Shetland Society, plans are underway to further develop detail on the proposed improvements to the Croft Museum mill and access path. The site is currently closed pending the work, and detailed contractor's estimates are pending approval from the funder and landowner. The work will comprise fencing, drainage, walkways and gates.

The scheduled pumping of the *Pilot Us*'s bilges highlighted the necessity to address the vessel's long-term welfare. The boat requires a new deck and, with insufficient budget to undertake any work, all that can be done over the next few years is to hold back further deterioration. Even with a new deck, there is no business case to protect such investment. Dialogue will be opened between the Trust and the Council to examine whether a third party might take on the boat in the long term.

Archives - Author: Brian Smith

Archives staff are doing their best to publicise that although the Museum is closed on Mondays, the Archives is not. This seems to be working and readers are finding their way to the Search Room.

The '*Miserabiles personae*' exhibition from Stavanger, which has now returned to Norway, was a great success, apparently more successful than anywhere it had been in Norway.

The Archives has helped many Ph.D. students over the years. A good result of that is that the students concerned frequently donate copies of their theses to the Archives when complete. In the past month the Archives received no fewer than four PHDs, on subjects from the history of Shetland lace to Shetland's relationship with German merchants in the 16th and 17th centuries.

A seminar on Shetland Literature of the early 19th century, organised by the Archives and Edinburgh University as part of the annual Wordplay Festival, was successful; fourteen people attended.

Archaeology - Author: Val Turner

A budget has been prepared to take the World Heritage (WH) bid forward and applications made for LEADER funding and also grant aid from Historic Environment Scotland. The LEADER application will be considered at the meeting in January 2019, and by then there will need to be another funding stream.

A document is also being prepared for Linda Coutts (SIC) in the hope that this will fill the gap. If successful this will form a major part of my work in the next financial year. Progressing WH Status means that we will also need to make progress on the plans to conserve Old Scatness as well. We have begun to explore a formal partnership with HES since they manage two of the three sites (Jarlshof and Mousa).

We (Jarlshof, Mousa and Old Scatness) are on the UK Tentative List which is current to 2021. The Department of Culture, Media and Sport (DCMS) have not as yet decided what they will do beyond this – they might invite sites to apply or just pick sites themselves to be on the list (they could even decide not to have a Tentative List at all). However, the likelihood is that, by making progress, we would stay on into the next 10 year period.

It is documented that the impact of WHS is that it makes 40-60% difference in tourist numbers and this benefit would be spread across Shetland. Achieving WH status is almost certainly biggest single positive impact that we could make on Shetland's tourism industry.

Environmental Improvement Team - Author: Sita Goudie

End of Life Vehicle Uplift – The North Isles Team continue to do their best to reduce the redundant vehicle list, whilst also fitting in other duties. We are informing the public that due to holidays and high level of requests, it is likely to be months rather than weeks before their vehicle is uplifted.

Autogreen – I continue to direct vehicle owners out with 30 miles of Lerwick to AG.

Recycling – The operative continues to pick up Redd Up bruck, collect and process cans and increasingly assists other sections where required.

Da Voar Redd Up 2018 - To date 246 groups registered with, 4,683 volunteers.

My application to Tesco Bags of Help, to fund reusable children's gloves, was successful. Da Voar Redd Up will be up against two other projects instore between Jan 1st and Feb 28th 2019, so please remember to vote for us! First place project will receive £4,000; second £2,000 and third £1,000. We will be informed at the end of March, which will leave little time for ordering gloves before the event. Therefore, I am already in discussion with a local supplier with regards to the types of gloves we could order, depending on the level of funding awarded.

I have purchased 14 litter pickers with the £250 Helping Hand voucher we received as part of our Keep Scotland Beautiful Spring Clean Hero Award. These have been made available for loan to the public for litter picking activities.

We have started sharing pictures and information on the tags and purses handed in. In total Redd Up groups collected the following from Shetland beaches in 2018:

Egg case species: 42 Small spotted Catsharks; 3 Spotted Rays; 6 Starry Skate; 1 Common Skate; 3 Thornback Rays; 1 Cuckoo Ray

Lobster tag origin: 10 Newfoundland and Labrador, Canada; 1 Nova Scotia, Canada; 1 Canada; 6 Maine, USA; 1 Massachusetts, USA; 2 Unknown Origin

Other tag origin: 1 Canadian recreational cod fishery; 1 Canadian crab fishery; 1 marked SEAL – unknown if this is linked to a fishery or just identifying the tag as a seal; 1 issued by the Environment Agency to salmon and sea trout net fishers in England; 9 linked to the offshore industry (oil, gas and shipping); 6 of unknown origin or purpose

Promotions:

I issued a press release regarding the increase in remote areas which were cleaned up this year, due to links with Seafood Shetland, land owners/crofters and businesses. This was picked up by local press. The Woodwick Redd Up films are complete, and uploaded to the DCB Facebook page, one as a banner and the other as a promotional film for the Redd Up. I mentioned the film and Woodwick Redd Up in the press release above.

The Danish journalist I supplied Redd Up details to has sent me their final article. If any of you read Danish, I can send you a copy to translate!

Social Media – Alice Robertson continues to update DCB Facebook and Instagram. She ran posts around Halloween and has started sharing the Mermaids purse and tag data from the Redd Up. Other posts include promotion of the new Zero Waste Shetland group, a video by a local young enterprise group on why they chose to develop a product to reduce the use of single use plastic, results of the Marine Conservation Society Big British Beach Clean, promotion of local shops and cafes offering eco-friendly alternatives and a Scandinavian coffee cup found on Ireland beach.

November Facebook stats: 35 new page followers. Posts have reached 12,524 people with 4,835 post engagements (likes/comments/shares/etc.).

Outreach – I have been in contact with the AHS Eco-Committee. They are working on ideas to reduce single use plastic in the isles, including a possible joint project with ourselves and the local supermarkets. I have contacted the Tesco Community Champion to suggest a meeting with the store manager regarding this.

I had an initial meeting with Ryan Thomson and Colin Bragg of the SIC to look at setting up a possible partnership looking at reducing waste. We are meeting again in December with other possible partners. There is potential for developing joint projects to bring funding into the isles.

I have been working on proposals for funding a #LitterCUBES exhibition and events next year. This will partner with Julia Barton, who we worked with on the Littoral project, and look at the cost of litter on our beaches. We are currently looking at draft dates of Apr 27th – May 25th 2019.

I have had initial discussions with RSPB and the Hillswick Wildlife Sanctuary regarding an artist they would like to bring to the isles next year. We are to meet to discuss if this could fit in with the #LitterCUBES project above.

I wrote a letter of support to accompany a joint NHS/Shetland Community Bike Project grant application to the Energy Saving Trust for eBikes.

Alice did a great Lunch and Learn presentation on single use plastics, encouraging all employees and Trustees to reduce their use.

Vehicles – I have prepared a report for decision regarding the Trust joining a legal action against truck manufacturers.

Engagement Report

Author: Sandy Middleton

Meeting Date: 14th December, 2018

I took up the position of Head of Engagement on 12th November and have spent much of the intervening period getting to know my team and colleagues, as well as bringing myself up to speed with the initiatives that fall within my remit along with the wider Trust work.

Shetland Boat Week

- 2018 - Work has been underway to review delivery, feedback, costs and outputs from Peerie Boat Week 2018. A meeting with Volunteers from the event has been organised to enable them to feedback on the event and generate ideas for the 2019 event.
- 2019 - Forward planning for the 2019 event is underway with costs, staff time and volunteer time being reviewed and a project team and steering group being established to take it forward.
- 2020 - A small group of key partner agencies have been brought together to consider a funding application to the Visit Scotland Events Programme for 2020 Year of Coasts and Waters. The ambition would be for the application to build on and enhance the offering of Boat Week in 2020 whilst working with painters to build new and linked events.

Shetland Wool Week (SWW)

- 2018 - A report on the outputs, feedback and impact of SWW 2018 is under development. A recent article in the New York Times has generated increased interest in the event from overseas and North America in particular. An online winter sale of Wool Week merchandise generated a high level of sales in a short period of time, the majority going to overseas customers.
- 2019 - A new project team is being put together to support the delivery of SWW 2019. Working with the Wool Week Committee, ideas for the 2019 10th anniversary event are under development.

Nature Festival

2019 – Forward Planning for the event will get underway in December.

Communications

A series of Press Releases on key projects, exhibitions and museum projects have been circulated and a new process for press releases is being established.

60 North Magazine subscriptions and costings are being reviewed and a project team established to review the approach and requirements for production of future editions.

An audit of SAT managed social media feeds and websites is underway with a view to a review and rationalisation.

An advert has been placed in the Shetland Visitor Guide for 2019 covering key SAT visitor offerings under a single page and web address, a new landing page on shetlandamenity.org has been created to support this. Future advertising will be considered as part of a wider marketing review.

Visitor Services

A training programme for Visitor Services Assistants at the Museum is being developed in conjunction with key staff including the VSAs. Consideration is being given to how we roll this out more widely to seasonal staff and as part of an induction programme for any new staff.

Outreach

The Lifelong Learning Service delivered events at the Museum and in schools as part of the Follow the Vikings Roadshow.

Discussions are underway with the SIC on a potential commemorative event for the end of WW1 to focus on the Shetland contribution.

Executive Summary

Context

Shetland Museum and Archives currently has accreditation from Museum Galleries Scotland, the industry standard for museums in Scotland. Museums are required to undergo periodic re-accreditation. SMAA currently has provisional accreditation status until such time as full re-accreditation has been completed. This paper outlines the process and asks Trustees to endorse one of the key submission documents which accompanies this paper, the Shetland Museum Collection Policy 2018-2023 (Annex 1). Additional submission documents relating to operations and strategic direction of SAT will be brought forward in the coming months.

Questions this paper addresses

1. What is the value of Museum Galleries Scotland accreditation?
2. What is the purpose and content of the Shetland Museum Collections Policy from 2018-2023?
3. What are the implications of caring for the Shetland Museum Collection in the future?

Conclusions

1. Being an accredited museum is a guarantee of quality, allowing us to apply for grants and loans.
2. The Collections Policy 2018-2023 regulates the acquisition, disposal and loan of items to and from the collection and represents the aims, plans and regulations of the museum in relation to that collection.
3. SAT is funded to care for the Museum Collection by SIC who own it on behalf of the Shetland Community. The collection will continue to grow over time as items are acquired into the collection. How these items are displayed, managed, stored and cared for will be a key consideration to SAT in terms of forward planning for staff and financial resources, and for storage facilities.

Input Sought

Trustees are asked to endorse the re-accreditation process for Museums Galleries Scotland and the associated Collections Policy. Trustees are also asked to give consideration to the implications of a continually growing collection and how this impacts on SAT staff and financial resource, the physical capacity of the Museum and associated storage facilities, and future funding from SIC.

Input Received

Dr Ian Tait, Curator of Shetland Museum developed the Collections Policy and is working on the re-accreditation application in conjunction with the Head of Development, Davy Cooper.

The Report

FURTHER CONTEXT

Museum accreditation is part of a scheme controlled by the Arts Council and delegated to regional agencies. Museums Galleries Scotland is the delegated agency for Museums and Galleries in Scotland. There is no charge for accreditation.

The Shetland Museum and Archives was due to undergo re-accreditation in early 2018. The re-accreditation process is thorough and requires submission of a series of key documents including constitutional, strategic, procedural and policy documents. Given recent changes in Shetland Amenity Trust and an over-arching policy review it has been challenging to undertake an informed review over the past year. Consequently, SMAA was granted a re-accreditation extension to November by Museums Galleries Scotland which has now expired. We have been awarded provisional accreditation status until such time as we complete the re-accreditation process. This should be completed by end of April 2019.

The submission for re-accreditation is under development and should include a range of policy documents covering topics from accessibility and health and safety, to environment and strategic planning. A key element of the submission is the Shetland Museum Collection Policy. This Policy has now been updated and accompanies this paper (Annex 1).

Additional Submission Documents currently under development include:

- SAT Strategic Plan
- SAT Environmental Policy
- Learning Access Policy
- Collections Care Policy & Plan
- Documentation Procedure
- Trust Deed
- SAT Staff Organogram
- Audited Accounts for 2017/18
- Cataloguing Backlog Programme

ANALYSIS

[What is the value of Museum Galleries Scotland accreditation?](#)

Museum Galleries Scotland Accreditation is a quality standard for the Museum and enables it to apply for grants and loans. The accreditation process is designed to ensure that organisations conform to nationally accepted procedures on all aspects of museum operation and governance.

[What is the purpose and content of the Shetland Museum Collections Policy from 2018-2023?](#)

The Collections Policy 2018-2023 will guide and regulate the Museum activity for the coming 5 years. It regulates and provides procedures for how we manage the collection including how, why

and what we should acquire into the collection, future plans for the collection and any ambitions or procedure for disposing of items from the collection. It also provides an overview of the loans process, the current collection, and potential gaps and targets for acquisition for the future collection.

[What are the implications of caring for the Shetland Museum Collection in the future?](#)

SAT is funded by SIC through a 25 year Service Level Agreement (2003 to 2028) to care for the Museum Collection on behalf of the Shetland Community. The funding is agreed annually by the SIC Economic Development Team based on a delivery plan which supports the 25 year agreement. The amount received from SIC has been reducing by 2-3% per annum since the Museum opened in 2007.

The collection will continue to grow over time as items are acquired into the collection. SIC own the collection whilst SAT own the Museum building and Boat Store. SIC also leases a Museum Store on behalf of SAT. How the items in the collection are displayed, managed, stored and cared for will be a key consideration to SAT in terms of forward planning for staff and financial resources, and for storage facilities. The Collections Policy is based on aspirations for the collection for Shetland and not on the capacity of SAT to store, exhibit and care for them.

CONCLUSION

Trustees are asked to:

1. Note the current provisional accreditation status and the process for re-accreditation.
2. Endorse the draft Shetland Museum Collection Policy 2018-2023.
3. Note the implications of a growing Museum collection on the future capacity of the SAT.

Hay's Dock Café Restaurant (Public Session)

Author: Mat Roberts Meeting Date: 14th December 2018



Executive Summary

Context

- Hay's Dock Café Restaurant was closed in November 2018 .
- Museum visitors expect a refreshment facility.
- A new provision is needed by Easter 2019.

Questions this paper addresses

1. How do we replace the Hay's Dock service?

Conclusions

1. My recommendation is that we offer a short-term local tender for Coffee shop in 2019 with a full market tender for a café 2020-2025.

Input Sought

I have had detailed discussions with our bankers, lawyers and accountants about both debt management and tendering options.

We have had a dozen enquires about our plans for the Hay's Dock space.

Input Received

Board approval for the above actions is needed.

The Report

What is the need or opportunity and why now?

- Visitors to the Shetland Museum and Archives expect to be able to buy some sort of refreshment during their visit.
- Until November 2018 the offer we made was a full service dining experience.
- After closure there is a need to find a suitable replacement before the summer season opening hours start at Easter.

What do we propose to do and why?

- A two stage process:
 - A local tender in January 2019 for a 12-month commercial tenant to run a coffee shop during standard museum opening hours using the equipment in the former Hay's Dock Café.
 - To run a full tender for a café operator to take up a 3-5 year lease from January 2020. This will provide the Trust with low risk income and our visitors with the refreshment service they require.

What is the business case?

Future Use of the Hay's Dock space:

- 1.1. I propose a two-stage process that provides Museum visitors with a refreshment option. A short term (12 month) local competitive outsource for a "coffee shop" offering and a full tender to a national market for a Museum café option on a 1-7 year franchise.
- 1.2. Other options considered
 - 1.2.1. Reopen with inhouse café
 - 1.2.2. Full national tender in January 2019
 - 1.2.3. Non refreshment commercial use (retail/gallery space)
 - 1.2.4. Non refreshment non-commercial use (additional exhibition space/office accommodation)

What options did we consider?

Consideration to paying off the debt with funds from the Trust Endowment was considered. The endowment sits at circa £1,190,000. Whilst Trustees are free to do this, it will take the fund close to the magic £1million mark and at this point we may not get the level of fund management and returns we have been benefiting from.

What do we need to do next to progress?

What is required to progress the preferred option?

- The board needs to approve the above actions.
- The staff team will draft a 12 month tender for a café operation in Hay's Dock using the equipment that is already in the building and following opening hours.
- This will be a sealed bid competitive process let in mid-January with a requirement for the bid winner to be operational before Easter.
- Bid winner will be expected to provide a range of financial guarantees for the rent and any rates liabilities.
- The letting will be managed by the Leadership team.

- A full national tender will be prepared with a view to finding a preferred bidder by September 2019 and mobilised in January 2020.

What resources are required?

The short term let will need support from the Trust lawyers

The long term let will require professional catering outsourcing advice

What would be the impact be of delaying or rejecting the decision to progress?

If this process is delayed, it is likely that the Museum will open in 2019 without any refreshment facilities.

SHETLAND AMENITY TRUST

REPORT TO DECEMBER TRUST BOARD MEETING FOR DECISION

Report Prepared By: Mrs Sita Goudie
Report Title: Truck Cartell Legal Action

1. Introduction

In July 2016, the European Commission found that the major truck manufacturers – MAN, Volvo/Renault, Daimler, Iveco and DAF – had broken EU antitrust rules. FTA members who made purchases of medium or large trucks between 1997 and 2011 are likely to have suffered significant losses because of the cartel.

Owing to both the European Commission finding and the truck manufacturers' admissions, claims for compensation would be difficult for the manufacturers to defend. Damages would be awarded for losses and interest, with the price paid versus the price paid if the cartel had not existed estimated as being in the region of 10-25 per cent of the price of all trucks purchased between 1997 and 2011. The Trust purchased 8 Iveco or DAF trucks during this period.

2. Proposed Action

2.1 The action now proposed

Trustees are asked to decide if they wish to sign the Trust up to the Road Haulage Association's (RHA) groups claim, taking legal action against the Truck Manufacturers on our behalf.

2.2 Justification

It is free and you do not need to be a member of the RHA to join the claim – therefore no up-front costs. As they have insurance there should also be no risk to the Trust if the claim is unsuccessful. If successful a fee of under 10% will be applied.

A full summary of the claim is attached to this report. Full details on the Litigation Management Agreement and the Deed of Adherence are available on request from Mrs S. Goudie.

2.3 Other options

- Take no action against the Truck manufacturers.
Risks: Could lose out on claiming back money owed to the Trust.
- Take legal action ourselves, instructing a law firm to work on an hourly basis.
Risks: Trust pays for legal action and may not win compensation.

- Join another group claim.
Risks: Other transport and freight associations are raising group claims but require membership before you can join, which involves an annual fee and their claim may be unsuccessful.

2.4 Consultation

Consulted with our transport manager, Mr Ian Jeromson, who is also the transport manager for the Shetland Islands Council (SIC). He contacted the Freight Transport Association, who the SIC are a member of, and has signed the SIC up to their claim. He confirmed the RHA is also a reputable organisation and, as you do not need to be a member, advised we join their claim as there will be no associated membership or other up-front costs.

This report was considered by the Trust's Audit & Risk Management Committee on 4th December where it was agreed that this should be forwarded to Trustees for approval.

3. **Risk Management**

Risks outlined above for the various options.

4. **Resources Required**

4.1 Finance

Except staff time, there is no up-front financial burden to the claim. If successful, a percentage will be removed to cover legal expenses before payment to the Trust.

4.2 Staff

Some staff time required to complete the application and gather relevant information for the claim.

4.3 Signatory

An authorised signatory is required to sign the agreement.

5. **Policy Implications**

None

6. **Standing Orders & Delegated Authority**

N/A

7. **Recommendation**

I recommend that the Trust joins the RHA legal action.

A long-exposure photograph of a multi-lane highway stretching into the distance at sunset. The sky is a mix of orange, yellow, and blue. Light trails from cars are visible, with red trails from taillights and white/blue trails from headlights. The highway is flanked by trees and a small stream on the left.

RHA Truck Cartel Claim

How to sign up to
the RHA's group claim

T: 08450 30 50 30

W: www.truckcartellegalaction.com

E: truckcartel@rha.uk.net

What is the RHA doing?

← A 59 Preston & Clitheroe

Manchester, Liverpool, Birmingham M6 ↑

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The RHA, as the dedicated trade body for road haulage in the UK, is bringing a group claim for compensation on behalf of you and other operators before the Competition Appeal Tribunal in London.

The RHA will not profit from the group claim. You will be able to “stand behind” the RHA, which will front the claim on your behalf.

The RHA is well aware that truck operators need to have business dealings with the manufacturers after the claim and therefore will conduct the proceedings in a measured and constructive manner.

There are economies of scale in the RHA bringing a large-scale action that will benefit you and other operators; in most cases it will also be too expensive to bring an individual claim.

Allowing non-members to join the claim will benefit RHA members.

This brochure tells you all you need to know so that you can formally sign up to the RHA’s group claim.

Truck Cartel

€2.926 billion
fine

RHA bringing
group claim

EU truck manufacturers fined €2.926 billion

On 19 July 2016, the European Commission fined European truck manufacturers €2.926 billion for price fixing and other cartel activities between 1997 and 2011. DAF, Daimler, Iveco, MAN, and Volvo/Renault acknowledged their guilt (Scania is still being investigated) and confirmed they did the following:

- At senior HQ management level, fixed gross (and sometimes net) list prices
- Aligned gross list prices across Europe (including the UK) at the start of the cartel
- Reduced rebates when the Euro was introduced
- Delayed introduction of more fuel-efficient Euro 3, 4, 5, and 6 technologies
- Agreed the cost that operators should pay for Euro technologies

No cost or risk to you even if we lose

The RHA is structuring its claim so that there should be no risk for you or other operators in joining the claim and nothing to pay even if the case is unsuccessful.

The RHA has put in place significant third-party litigation funding on very competitive terms. Based on conservative estimates, you should retain 91% or more of the compensation owed to you after the funder has received its return and any required insurance payment has been made.

The RHA is taking out significance insurance with A rated insurers so that neither the RHA nor you should be liable for any costs if the case is unsuccessful.



RHA claim is open to all truck purchasers – members and non-members alike

Who can join the RHA's claim?

Any company, firm, or individual that has purchased or leased trucks regardless of the nature of your haulage business (e.g general haulage, tipper, refuse, bulk haulage) but potentially not including those who buy trucks to then sell or lease the trucks to others.

What can you claim for?

- ✔ Trucks purchased or leased between 1997 and 2011
- ✔ Trucks of 6 tonnes and over
- ✔ Trucks purchased outright
- ✔ Trucks purchased on finance
- ✔ Trucks leased

You may be able to claim for:

- ✔ Trucks purchased or leased after 2011
- ✔ Second-hand trucks

How much compensation might I get?

Based on conservative estimates, the RHA currently believes that you may be able to obtain on average at least £6,000 per new truck purchased or leased (including interest).

The RHA is nevertheless developing its case and working with expert economists to obtain a clearer picture. The RHA will also provide more clarity on the potential compensation claim for second-hand trucks soon.

How long will the case take?

While it could take several years for the case to conclude, there will be every opportunity as the RHA presents its case to the truck manufacturers for settlement to be earlier.



RHA claim summary

The Road Haulage Association (RHA) is working with Backhouse Jones (the Solicitors) to bring a claim for compensation on behalf of RHA members and non-members against the main European truck manufacturers who were involved in a 14-year price fixing cartel between 1997 and 2011. The claim is based on the Truck Cartel decision of the European Commission dated 19 July 2016 in which Daimler / Mercedes, DAF, Volvo/Renault, Iveco, and MAN were together fined €2.926 billion. The RHA will bring a collective claim before the Competition Appeal Tribunal in London. The RHA will not profit from bringing the claim and aims to bring the claim as efficiently as possible.

Everyone who wishes to benefit from the claim must agree to the same documents. These are:

- a Litigation Management Agreement (LMA);
- a Deed of Adherence, through which you will signal your agreement to a Litigation Funding Agreement (LFA);
- an Authority Document, enabling the RHA to conduct the litigation on your behalf.

You will also benefit from a Legal Expenses Insurance Policy covering the RHA and you against the risks of the costs of the litigation.

The purpose of this booklet is to help you understand what the above-mentioned documents say.

Running the case

1. You agree to opt into collective proceedings when the Competition Appeal Tribunal opens the window for doing so. The RHA will let you know when you need to take this action and how to do it. If collective proceedings before the Competition Appeal Tribunal are not feasible generally or in relation to your claim (which seems unlikely), the RHA will seek to bring other legal proceedings (either before the Competition Appeal Tribunal or the High Court) to win you compensation.
2. The claim will be run as a collective claim, meaning that many claimants will claim together at the same time. This brings with it a number of advantages for the claimants, including costs savings and a stronger position from which to conduct negotiations.
3. Agreeing to opt into the claim is a commitment to the RHA, the claim and to the other claimants. You agree to use the RHA as your exclusive representative in this matter. There may be financial implications for you if you drop out of the claim early. These costs will not be covered by funding or insurance.
4. We will only advise you about specific claims arising from the European Commission's Truck Cartel decision. We will not advise you about other claims you may have against the truck manufacturers or anyone else.
5. The RHA will take day-to-day decisions about the case and conduct the legal proceedings on your behalf. The RHA's duties will include overseeing the legal team, approving invoices, directing how the case should be run, and making settlement decisions on your behalf.
6. The RHA and Backhouse Jones must run the case in a cost-effective way for it to be successful. This extends to the way in which settlement proceeds may be distributed. The RHA will be aiming to win the optimum level of damages for you and the other claimants. If the RHA Board accepts a global settlement for all of the claimants, the level of damages owed to you will likely be linked to the number of trucks you purchased or leased during the cartel period (and potentially during a period after the cartel ended), although the RHA will have discretion in deciding how to divide the pot and need not look closely at how good individual claimant's claims are (because that may be too expensive and time-consuming). The cost of distributing the claim proceeds will be paid from the claim proceeds (and this has already been budgeted for in the overall costs of the case) and will be supervised by the funder.
7. If the Competition Appeal Tribunal determines the level of compensation owed to you and other claimants, the Tribunal may make an aggregate assessment of compensation which means that it will not necessarily make a detailed assessment of the individual merits of each individual claim.

RHA claim summary

8. You have duties toward us and the court. You must promptly and at your expense respond to requests for information (which we will keep to a minimum). You should keep and not destroy any documents which might be relevant to the case (for example, documents relating to your truck purchases, as well as finance and lease documents). You must ensure that all documents and information you provide are accurate, true, and complete. You must follow the advice of the legal team working for the RHA and comply with any orders of the court. If you have any concerns about any information you are providing, you must inform the RHA about this. You will also allow the RHA to seek relevant information from your accountants or other professional advisors in order to bring your claim.
 9. The RHA will run the case in the best interests of the claimants. In the unlikely event the RHA causes you any loss, the RHA's liability will be limited to an aggregate amount of £20 million.
- ### Funding and insurance
10. We will only charge you if you win the claim. This fee will be taken directly from any settlement monies or monies awarded.
 11. The RHA will, however, need some working capital as the case progresses. That money will be made available by a litigation funding company.
 12. The funder will also pay for other costs, such as the fees of Backhouse Jones, as well as barristers' and experts' fees.
 13. If the case is lost, you will not owe any money to either the RHA, Backhouse Jones, or the funder.
 14. If you win the case, the funder will be entitled to recover an amount based on the overall level of monies won by all operators opting into the RHA's claim. The total amount will never exceed the amount of compensation won collectively. Based on conservative assumptions in relation to the level of damages per truck and the overall number of trucks that are in the RHA's claim, the level of return to the funder will be at most 9% and may be as low as 5%. If the case settles early, these percentages will be reduced by a third, thereby returning even more of the compensation to operators. Further details on this are provided on page 10.
 15. Usually in litigation the losing party is ordered to pay the winning party's costs. As the RHA is bringing this matter on your behalf, any such order would generally be made against the RHA. There are limited circumstances in which you might be ordered to pay costs where issues arising in the litigation apply only to you. However, the RHA is taking out insurance to insure against this risk both in relation to itself and in relation to you. You agree to be bound by the insurance policy wording. Your obligations under the insurance policy are discussed on page 14 providing information on risk.
 16. The purpose of the funding and insurance arrangements is to ensure you do not need to pay anything to participate in the claim.

Professional standards

17. Backhouse Jones are professionally required to confirm that you are who you say you are. We will aim to seek to check your identity electronically using public databases but might need further information from you.
18. The person in charge of the case at Backhouse Jones is Steven Meyerhoff.
19. The Solicitors are authorised and regulated by the Solicitors Regulation Authority. The rules of the Solicitors Regulations Authority can be accessed at:

www.sra.org.uk/solicitors/codE-of-conduct.page

20. If you are not happy with any aspect of the Solicitors' work, please contact the Solicitors and they will try to deal with any problem quickly through their internal complaints procedure. If, for any reason, at the conclusion of the complaints process you are not satisfied with the outcome then you can involve the Legal Ombudsman.

Alternatives to bringing this claim

21. Please bear in mind that there will be a large number of co-claimants also agreeing to the terms on which you will join the RHA's claim. The only basis on which the RHA is offering potential claimants the opportunity to join the claim is on the basis described under 'Funding' and elsewhere in the documents to which you will agree through the Deed of Adherence. There may be alternative ways of bringing and funding your claim through other solicitors who may offer other ways of funding your claim. Similarly, you could consider instructing solicitors personally.
22. You should consider that it is possible that one or more of the truck manufacturers may offer a settlement outside of the litigation so that you could be offered compensation if you do nothing and do not claim. In the Solicitors' view, this is highly unlikely.



Understanding costs

IF YOU WIN:

You should receive 91% or more of your award or settlement. If the case settles early, you should receive 94% or more of your award or settlement.

The funder will take a fee.

The fee will be either:

- Three times (or less than three times if the case settles early) what it has cost to bring the claim (Multiple);
or
- A percentage of the money that the group wins, if that is more than the Multiple plus the return to the funder of the funder's outlay. The percentage starts at 30% and reduces to 5% at higher overall compensation levels. There is also a third reduction in the funder's fee if the case settles early.
- Based on conservative estimates of the level of damages and the number of trucks that will form part of the RHA's claim, you should receive between 91% and 95% of any award or settlement. If the case settles early, you would receive an even higher portion of your award or settlement. To some extent, the RHA's ability to deliver returns at this level will depend on the ultimate size of the claimant group.

- We think the fee will be 9% or less, but the fee might be more than that if we recover less than anticipated, if the group is smaller, or if the funder has to spend a substantial amount or more money than previously expected. The outcome will also depend on the quality of the legal arguments and the evidence in the case, although liability has already been established through the European Commission’s decision in the Truck Cartel case.
- You will not need to pay anything if the amount you win is less than the fee.

IF YOU LOSE:

You pay nothing.

Neither the RHA nor the Solicitors will charge you for their time or the costs incurred on your behalf.

Usually in litigation the winning party will be entitled to recover their costs from the losing party. As the RHA will be bringing this claim in collective proceedings, the RHA will ordinarily be liable for the winning party’s costs if the case is lost. The RHA has taken out insurance to cover this risk and also to cover you in the unlikely event that costs are awarded against you for any matters relating only to your own claim (and not also to others’ claims).

WORKED EXAMPLE FOR NEW TRUCKS

THESE FIGURES ARE ILLUSTRATIVE ONLY AND YOU MAY RECOVER MORE OR LESS.

We cannot provide exact figures because they will depend on a number of variables (including the value of the claims, the number of claimants, and the timing of any settlement).

Based on a claim for one truck and assuming that there are 250,000 trucks in the RHA’s claim:

If...

The compensation available for each truck: £6,000

The group compensation before costs is: £1.5bn

And...

If the funder has set aside this much for costs: £15m

Then...

Your share of the funder’s fee less capital back (9% of £1bn divided by 250,000) is: £540

After costs, your compensation per truck is: £5,460



Practical points



Websites

- › www.rha.uk.net
- › www.backhousejones.co.uk

About us

The RHA is the only UK trade association dedicated solely to the needs of UK road transport operators.

Backhouse Jones is the leading law firm for the road haulage sector and have significant litigation capability. Backhouse Jones has teamed up with expert competition law specialists at Exchange Chambers and Brick Court to advise on the claim. The legal team have worked on competition matters for organisations such as the FIA (regulatory body for Formula 1), FIFA, Google, GSK, Samsung, Sky, and UEFA.



Addresses

RHA

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Clitheroe
BB7 9WD



Telephone

RHA

01733 261 131

Backhouse Jones

01254 828 300

Your expectations

We do not yet have clear details as to the value of your claim per truck. The European truck manufacturers were nevertheless found liable for a serious breach of competition rules for operating a price-fixing cartel for 14 years. While we do not have clear details, our preliminary analysis suggests that the claim per truck will be worth at least £6,000 (including interest) and may be much higher. As with most large-scale litigation against corporate defendants, it is likely to be aggressively defended and take over a year to reach a conclusion. You should also be aware of the risks set out on page 14.

However, this case raises important issues and the RHA is pleased to be able to offer to represent you on the basis of 100% funding, which means that the funder and insurers are taking significant risks in order to bring the claim. The RHA will be working hard to win while also trying to keep the administrative burden on you as light as possible. We hope and expect that we will be able to secure some compensation for your trouble and set a strong precedent for the truck manufacturers and other large companies which may be tempted to cheat the system.

Publicity

You should be aware that if you join the case, your name and address will appear on court documents and will be a matter of public record. If the case goes to trial, any member of the public will be entitled to attend court to watch the case being heard.

Working with others

Once you have signed the relevant agreements, we would ask that you please refrain from registering as a client of another firm for the purposes of the truck cartel litigation, as this will inevitably create confusion and lead to costs associated with clarifying your position.

Confidentiality

The RHA's Solicitors are obliged to keep your affairs confidential. However, if the RHA is to run the case effectively, it may be necessary for us to disclose the facts underlying your claim to the RHA Board (and in limited circumstances to other claimants) and to the professional advisers (principally the Solicitors, counsel, and experts) we or the Solicitors engage. The LMA allows us to do that.

The Solicitors and/or the RHA Board will report to you on a monthly basis as the case progresses. It is very important that you ensure that all communications and documents you receive from us (including the LMA and the document pack) remain confidential because it could damage the case if they were seen by any of the truck manufacturers. The LMA requires you to keep all the information you receive during the course of the case confidential, even after you cease to be our client.

About disclosure

As a party to the legal case you have a duty to disclose (that is, tell the other side about) documents which might be relevant to the claim regardless of whether they are harmful or helpful to your own case. This means that whilst you are a claimant you will have to keep such documents safe, and be prepared to produce them if required.

Practical points

Information about risk

In bringing the claim for compensation on behalf of you and other claimants, the RHA will be putting itself at risk of having to pay the defendants' costs if the case is lost. It is important to remember in this context, however, that liability has been established against the truck manufacturers by the European Commission's decision in the Truck Cartel case and this already significantly minimises the risk of the RHA being required to pay the defendants' costs.

The RHA has nevertheless taken significant steps to protect itself from any risk by obtaining insurance cover so that, if the case is lost, it will be the insurers who will pay the other side's costs up to the level of the amount insured.

In relation to factual and legal issues that affect all claimants or sub-groups of claimants, it is only the RHA that can be liable to pay the defendants' costs if the case is lost. If any issues arise in the litigation that affect only you and not any other claimants, there is a small risk that the Competition Appeal Tribunal might require you to pay a portion of the defendants' costs if your part of the claim is lost. However, the insurance cover taken out by the RHA covers you just as it covers the RHA (subject to customary exclusions) so that, if the case is lost, it will be the insurers who will pay the other side's costs on your behalf up to the level of the amount insured.

In addition, the RHA at the outset of the case will seek an order from the Competition Appeal Tribunal so that the defendants' costs are capped at the level of the insurance cover, thereby removing the risk of the defendants' costs exceeding the insurance cover.

The RHA has sought to minimise the risk to you as far as possible. The insurance in place, coupled with careful management of the litigation process, should mean that the risk will be at most negligible.

These matters are described in more detail on the next page.

Insufficient insurance cover

One of the risks is that the defendants' costs are higher than the level of the insurance. It is the RHA's job together with the Solicitors to make sure that the level of the insurance cover is sufficient. The RHA has sought to minimise this risk as far as practicable. The RHA has taken out one of the largest ever litigation insurance policies for a case before the English courts. Moreover, the case management processes of the Competition Appeal Tribunal mean that the defendants will be obliged to update the RHA regularly about their costs, which will increase as the case progresses, so that we can take steps to increase the insurance cover if it is necessary to do so. The RHA does not regard this as a material risk.

The insurer refuses to pay out

The funder's insurer may deny or seek to withdraw cover, either:

- a. after the unsuccessful conclusion of the case; or
- b. while the case is continuing.

It is the Solicitors' responsibility to ensure that the insurers are fully informed about all aspects of the case so that it is not open to them to refuse to honour a claim if the case is lost. The funder has invested heavily in the case and they will be equally anxious as you and we to ensure that the insurers are fully informed and have no reason to refuse cover.

The insurer goes out of business

There is a possibility that the insurer fails so that they are unable to pay. However, the RHA is using only A rated insurers and so the RHA does not consider that this is a material risk.

You do not comply with the terms of the insurance policy

There are certain circumstances in which you would lose the benefit of the insurance cover the RHA has put in place. The main situations in which this could happen are if you: (a) deliberately or recklessly provide misleading information in relation to your claim; (b) fail to follow the advice of or provide instructions to the RHA; (c) fail to comply with any court order; and (d) fail to cooperate with the legal case, including in the unlikely event you are asked to attend any meetings or court hearings. The RHA has much the same obligations, as well as other obligations and, in the unlikely event the RHA were not to comply with its obligations, you and other claimants could lose the benefit of the insurance cover.

Practical points

The funder goes out of business or withdraws from the claim

The risk that the funders may go out of business is mitigated in two ways. Funders typically commit funds to a particular case separately so that the funds are protected in the event that they fail. No funder commits irrevocably at the outset to fund a case to its conclusion. We always find out new facts as we progress, so it is inevitable that perceptions of risk will change. In these circumstances, an agreement to fund litigation is always subject to the funder's ability to withdraw if they no longer consider the risk to be one worth taking.

If the funder were to withdraw from funding the claim, the consequence for the funder in practice would be that it would lose all or most of the money that it had invested, up to the point of its withdrawal. The implication for you would be that you could then only carry on if you could find another funder or if collectively the claimants could fund the case themselves. It is, however, doubtful that the RHA or you would want to take a risk that commercial funders did not believe in. Indeed, if the RHA stops being satisfied with the merits of the claim or does not continue to believe it is commercially viable, it can stop representing you.

The funding agreements contain the termination provisions approved by the Association of Litigation Funders, which you can review on their website:

www.associationoflitigationfunders.com

The group does not attract enough claimants

There is a further risk: that the case is successful but any recoveries for the claimants are limited.

It is possible (but unlikely) that the group will not attract enough claimants. If the total claim value is below a certain level, the damages that the claimants are awarded may not be sufficient for there to be very much to distribute to claimants after the payment of the funding costs. (Similarly, if there is a low settlement, the claimants may achieve only a limited recovery.)

The indication that the funder's return will be 9% or less of the compensation applies only if the group reaches critical mass. If the funder's return is based on a multiple of the funds that they have committed rather than a percentage of the compensation awarded to the claimants by the court, or compensation received in settlement, the claimants' recovery will be restricted. The funder's risk, by the same token, is that even if the claim is successful, they will not recover the sums they have invested, or will not receive a commercial return.

You succeed in your claim but other claimants fail in theirs

The insurance cover will be on the basis of the group claim, so that the insurance will respond only if the claimants' claims as a whole fail. If some claimants succeed and others fail, the insurers will pay out only to the extent that the costs payable to the defendants in respect of failed claims cannot be paid from the amount recovered for successful claimants.

There is not enough value in truck manufacturers' groups to satisfy the claim

It is possible that the truck manufacturers might not have the funds to satisfy the claim. Given the size of the various groups, this seems unlikely. The RHA will nevertheless monitor this risk as the case progresses. Failed claims cannot be paid from the amount recovered for successful claimants.

The truck manufacturers make a global offer to all affected operators

The truck manufacturers individually or together might offer financial compensation to every operator who bought an affected truck. The risk that this entails for you is that you may not be able to participate in that offer until the group claim has been resolved (whether by settlement or final decision of the court). You will probably not be able to take the full benefit of that offer in the same way as a non-claimant, as your offer is likely to be subject to some deduction for the litigation funder's fees. While we have no control over whether the defendants decide to make a global offer, in our view this risk is justifiable on the basis that in the absence of any legal pressure the defendants are very unlikely to make a financial offer of any sort: we think that claimants are better off claiming than not, on the basis that it is better to get something than nothing.

Our advice on the risks

In view of what the RHA has done and intends to do to limit the risks, it is the Solicitors' advice to potential claimants that the risk of personal liability falling on any claimant is extremely low.





Now that you have read this brochure, you have all the information you need to officially sign up to the RHA's group claim.

To sign up online, please go to **truckcartellegalaction.com** where you will be guided through the simple process. Please note, you will need to provide some information about your business during the sign-up process if you have not already registered your interest.

If you would like to speak to someone before signing up, please use the contact number or email at the end of this brochure.



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