

EXECUTIVE COUNCIL

PUBLIC

COPY NO:

MINUTES OF THE MEETING OF EXECUTIVE COUNCIL (No: 03/25) HELD TUESDAY 25 FEBRUARY 2025

PRESENT:

His Honour The Deputy Governor
(David Morgan)

The Acting Chief Executive
(Andrea Clausen)

The Honourable Financial Secretary - Overseas
(Pat Clunie)

The Honourable Jack Ford
The Honourable Leona Roberts
The Honourable Roger Spink

CLERK: Claire Law

MINUTES: Cherie Clifford (via recording)

PRESENT IN ACCORDANCE WITH SECTION 61(1) OF THE CONSTITUTION:

Commander British Forces, South Atlantic Islands
(Brigadier Daniel Duff)

Attorney General
(Simon Young)

PRESENT IN ACCORDANCE WITH SECTION 61(2) OF THE CONSTITUTION:

Director Development and Commercial Services – Items 8-11
(Becky Clark)

APOLOGIES

Her Excellency The Governor - Overseas
(Alison Blake CMG)

The Honourable Chief Executive – Ill/Overseas
(Andy Keeling)

Clerk of the Executive Council - Overseas
(Cherie Clifford)

The Honourable Mark Pollard - Leave

Minutes of the Meeting of Executive Council held on Tuesday 25 February 2025

REF: EXCO 8/3

1 Forward Plan

The purpose of this report was to provide Executive Council with an update on forecasted reports for submission to Executive Council.

The Attorney General advised that the agenda for the March ExCo was discussed at CMT:

- Pilotage – there was a question mark around this paper however the team are hoping to have it ready for March.
- Housing Strategy – Tenancy Agreement – this needs further discussion with Members as to when it will come forward.
- Financial Assistance – there is a recognition that it is well overdue, but there is a lack of resource at the moment to progress, this has been rescheduled to April.
- Member Remuneration – there is an expectation of the report from Dr Hall, but he has had a family crisis so there may be a slight delay on his report.
- Fox Bay Renewable will be removed from the Forward Plan as it is being dealt with as part of the budget process.
- BFSAI SARs MOU – this has now been back with BFSAI/MOD since July/August, it is therefore unlikely that this would be ready by March but would welcome feedback on when they might be able to make some process. The Acting Chief Executive commented that they can leave it on the Forward Plan for March as they did not wish to move it without consulting BFSAI. She advised that there were some ongoing conversations, but that BFSAI was now awaiting a response from Stratcom. The Commander British Forces advised that he would, follow up, his intention is to ensure all MOUs are updated.
- FIGO essential building works – MLA Ford asked if this could be placed into the budget process. The Acting Chief Executive advised that this is one that they are awaiting extra information, as no report has been received. At the moment they are minded, to move the report until they have the right information to include it at the appropriate point.
- SOLAS convention – that report will move into the tab of reports for which there isn't a date as it is just moving forward as it's not been possible to address it.
- Navitas Heliport Options – it is intended for that to be submitted in March, but is dependent on further information from Navitas

Additional items not on the Forward Plan due in March are:

- MOD/FIG MOU for secondary education and boarding
- Educational Needs Assessment Threshold

The Attorney General advised that there was also a discussion relating to reports on Sealion project – it is intended that a number of reports are to be submitted, some may come before others and there may be a need for a couple of special EXCO meetings.

The Acting Chief Executive advised that they have a list of what those reports may be, they are being reviewed against the timeline and programme, these can then, be circulated. She advised that a lot of the papers are in draft or about to be drafted. The Attorney General commented that there are a few that are relatively straightforward issues, but others that will need consultation with the FCDO.

**ACTION: COLA/Officer
PUBLIC**

REF: DEV 49/1

2 Loan Application MLM 484 - 21-25 FS/MDFIDC

The purpose of this report was to enable Executive Council to consider and ratify loan application MLM 484.

Executive Council ratified the FIDC Board's approval of an unsecured loan.

**ACTION: FS/MDFIDC
NOT PUBLIC**

REF: DEV 29/17

3 FIMCO Guarantee - 23-25 FS/MDFIDC

The purpose of this report was to enable Executive Council to consider the continued support and approval of the FIMCO Guarantee.

Executive Council approved the recommendations as outlined in the report.

**ACTION: FS/HE The Governor
NOT PUBLIC**

REF: INC 10/5

4 Falkland Islands Tax Review Project - 28-25 FS/Hot

The purpose of this report was to enable Executive Council to consider the proposed specific tax, legislation and policy options providing a more focussed project for review as result of Executive Council's consideration of report 169/24.

The Financial Secretary advised that the report follows on from ExCo paper 169/24 which proposed a full comprehensive review of Falkland Island taxation and legislation but was rejected by Members at the time with a more focussed paper requested.

He advised that the report proposes a more focussed review of specific tax, legislation, and policy options to be undertaken. This paper also sets out the various stages that the tax review project will move through that will require ExCo approval at each of those points. This is to ensure that ExCo is kept fully informed of the costs being incurred and the outcomes that have been achieved. The report is requesting approval of the scope, stage gateways and initial tender stage of the project to allow an ITT to be issued.

The revenue that FIG receives from corporation and personal taxes

accounts for a significant part of the total annual income received ranging from £35M - £55M. The Taxes Ordinance came into effect in 1997, and it has been over 20 years since a full review of the Tax Legislation has been undertaken. A commitment was made in the 2024/25 budget speech that a Tax Review would be undertaken. It is important that a review is performed to ensure that the tax system and legislation are robust, effective, fit for purpose and helps support the wider economic policy objectives.

The 1997 legislation has been used for nearly 30 years means that the tax team have been able to identify a number of areas that would benefit from review and updating.

The areas of taxation, legislation and policy that have been identified for inclusion in the review project have been identified in the three appendices. A key area is the review of existing tax rates, bands, and allowances as this is an area that is subject of much discussion, especially around budget setting time. This also includes a review of the taxation of dividends. Various elements of the existing legislation require amendment to ensure that they remove any ambiguity of interpretation and protect tax revenues. Guidance requires updating to ensure that the tax system is easily understood.

It is important that any changes in the tax regime and legislation are thought through and considered. This is to ensure that the whole system is unified in an understandable way that supports the wider economic plans and policy of government.

REDACTED

MLA Spink commented that this is much better and much more focussed than previously. On the redactions, the appendices indicate which areas will be reviewed, he hoped that there was an answer for any questions raised. The Attorney General noted that they would be going out to tender and therefore the areas for review will be included in that public documentation so will not remain confidential. He advised that for some areas, they probably could give a more general description (reviewing tax rates, dividends) which is not controversial, however specific areas where there are identified weaknesses, would need to be redacted. The Acting Chief Executive advised that perhaps some general lines could be provided to answer questions.

MLA Roberts commented that she understood the redacting of appendices, but she struggled with the heavy redaction of option 2 (para 5.6 onwards), she stated that some of it she felt was reasonable to say. The Attorney General commented that the un-redaction of option 2 could go part of the way to explaining the general coverage of what is in the appendices without going into the detail.

The Acting Chief Executive queried the redaction of 5.3.15, she stated that it is a general comment about what they have and general political view. It was agreed that the Acting Chief Executive would review the redactions in order to make the report more transparent.

MLA Roberts commented that there was no stated timeline within the report, she advised that she did understand why, but she said she would like to have a better understanding of where the high priority pieces in appendix 1 might sit in terms of timings. She commented that there are some pieces that they would like to see move relatively quickly, noting the importance of getting it right and all the unintended consequences and implications that might arise, but some have been raised for a number of years as issues. The Financial Secretary advised that this has been discussed and there is a hope that some changes can be made with effect for 1 January 2026, but expectation for full implementation would be 1 January 2027. The Attorney General commented that 1 January 2026 would be unrealistic timeframe with what is required and other priorities on the legislation programme but 2027 was a possibility. MLA Roberts commented that when they had the briefing a year ago about the dividend tax issue, that, looked like something that could have been brought forward and now this has been delayed further especially when they are trying to increase revenue, and reduce income equality, she stated that it feels like a long road. She stated that it is frustrating, but she supported the recommendations.

On the dividend tax, the Acting Chief Executive advised that they will be looking at that during the budget process to understand what might be possible. If it were a minor legal amendment, to cover one key item, it would be out of context with the whole review, but this is still being considered.

MLA Ford advised that he had raised some queries with the team and had received response around the costs for the review, partial or full, what those cost would cover in terms of work outputs. He stated that having reviewed the responses, he had changed his mind and suggested that perhaps it would be best to go out for a full review up to report stage and then decisions made thereafter on whether they decide to reduce the scope of the work. He stated that he appreciated that this might come at a cost but felt it would be better to cover all the bases in the beginning rather than feel they might have missed something. He stated that they would need to focus on the existing legislation as it is, the known and unknown problems and less on new taxes and rates.

MLA Ford suggested getting to stage 1 of the report with recommendations, in parallel looking at what else they are trying to achieve through the tax system to help shape the future direction of the economy. MLA Ford said that there are certain things that Members are of one view and there are other areas that they do not share the same view. MLA Roberts agreed stating that, that was a much broader conversation. The Acting Chief Executive agreed, but stated however, that it is part of this conversation, did Members wish to remain reliant on the existing tax base or diversify the tax base, she stated that tax is a tool to leverage different things and depended on the long term vision.

MLA Ford stated that he was leaning towards a full review going back to the original report. He commented that another area for consideration at some point was around ITQ fee work and the risk sharing, taking into

account the fees and tax revenue. If it was decided that x% of the fishery money to come to FIG that would require tax changes as well. The Acting Chief Executive advised that they can't predict what the outcomes of that project will require in terms of changes at this point. It was also noted that they will also have some tax considerations regarding oil funds that would need to be established. She stated that that they currently do not have the detailed policy position on these areas such that they could be included in the review.

The Attorney General advised that if there is a full review of the current Ordinance and opportunities, certain items that are already excluded. He stated that if they are not interested in the VAT work then don't include it in the requirements for review and if there are other similar areas, then they too should be highlighted and consider for exclusion.

MLA Roberts asked to what extent would it complicate the process if they were to revert to a full review but that there would be no commitment to the next piece of work. There would be a gateway with a report coming back with recommendations for areas to take forward. She asked whether that would make it more difficult to attract people to bid. The Acting Governor commented that it would result in wildly different bids as there would be uncertainty about what they are seeking. MLA Roberts commented that, that was her concern, she stated she didn't have an objection to widening the scope, but would that make it more effective or more difficult?

The Acting Chief Executive advised that her concern was that they don't know what they will be accepting post review for further work and therefore the bidder will maximise their bid to cover for every eventuality. The Attorney General advised that they need to go out to tender for the report. The Acting Chief Executive advised that they need to decide to what they then wish to focus on following that initial review. She stated that they already have a list of areas that they know are problematic and that can be included in the next phase to have the policy development/ drafting. The Attorney General advised that based on the costs in the original report, this would be **REDACTED** spend.

The Acting Chief Executive raised concern that based on the discussions, the report did not reflect what she believed Members are suggesting.

The Acting Chief Executive commented that they would need to revert to Executive Council recommending a detailed review of the existing Tax Ordinance. The Attorney General suggested that it would be better if Executive Council authorised officers to produce an Invitation to Tender document that could be considered for approval providing the scope for a full review of existing legislation in manageable stages.

MLA Ford commented that the two pieces of work need separating, firstly the review of the existing legislation and secondly identifying what levers need to be used within the tax system, to achieve their overarching goals. The process needs to be clearer.

It was agreed that messaging from Executive Council on this report,

would be that further discussion is required before a decision is made on any tax review and that no decision has yet been made.

Executive Council:

- (a) Authorised the Financial Secretary to prepare an Invitation to Tender to present back to Executive Council for approval.

Executive Council did not:

- 1.1. Agree that all the work areas noted in Appendix 1 should be included in the Tax Review Project.
- 1.2. Approve separating the Falkland Islands Tax Review Project into the following stages, with ExCo approval required before moving into the next stage:
 - a. **Tender stage:** Seek quotes from External Tax Consultants to prepare a report to review selected areas of the current legislation and make recommendations for improvements to Falkland Islands Taxation.
 - b. **Contract stage:** with ExCo approval enter into a contract with preferred Tax Consultants.
 - c. **Report & recommendation stage:** Creation of a Tax Review report that includes recommendations for how to improve Falkland Islands Taxation. Once Falkland Islands Government Tax Office (FIGTO) have reviewed the report the recommendations will be presented to ExCo and if appropriate a budget request will be made to implement these.
 - d. **Implementation stage:** Perform work required to implement the recommendations (this could involve creating new legislation, adjusting tax rates, introducing new taxes etc.)
- 1.3. Approve the commencement of the 'Tender Stage' of the project allowing FIGTO to issue an Invitation to Tender (ITT) for a report that reviews all the areas in Appendix 1 and provides a recommended next course of action.

**ACTION: FS/HoT
PUBLIC WITH REDACTIONS**

REF: TRE 2/26

5 **Coins Validation Bill 2025 - 35-25 FS**

The purpose of this report was to enable Executive Council to consider the Coins Validation Bill 2025.

The Financial Secretary advised that the Coins Validation Bill 2025 requires approval for publication in the Gazette and submission to the Legislative Assembly in order to regularise the issue of a number of

commemorative coins which have been issued unlawfully.

The Commissioners of Currency are appointed under the Currency Ordinance 1987 and have the sole right to issue currency on behalf of the Falkland Islands Government which meet the description set out in an order made by the Governor.

In addition to the issue of circulating currency, the Commissioners regularly issue commemorative coins for which a royalty is received for those sold. Commemorative coin designs are agreed with the commissioners before being authorised by the Governor and Palace. An order is produced by the AG Chambers for the commemorative coins which are then Gazetted under the too unimportant issues by the Governor.

Tower Mint were engaged in 2024 to mint and issue coin on behalf of the Commissioners over 5 years. The first Commemorative coins minted by Tower Mint are the subject of this Validation Bill as they were sold and distributed prior to the Order being formally Gazetted although it had been drafted. The coins were distributed incorrectly by Tower Mint who misunderstood the process of making the coins legal in the Falklands. They manage the issue of coins for Gibraltar where retrospective validation is given and assumed incorrectly that it was the same for the Falklands.

Upon being made aware of the situation regarding the coins the Financial Secretary instructed Tower Mint to cease sales and distribution of Falkland Islands coins until this matter is resolved. Whilst in London for the Investor meetings the Financial Secretary also had a meeting with the Tower Mint MD and re-iterated the position and process that needed to be followed to make coins issued legal.

Due to the fact that the coins were issued without the order being Gazetted, they have the status of being unlawful and illegal. In order to validate the coins this Bill is required.

Alongside this Bill, an Order has been approved by the Governor and the coins have been Gazetted which has enabled the Commissioners to authorise the issue of the relevant coins. The Bill will retrospectively validate the coins already purported to be issued and is the only effective way of doing so.

There is now a clear understanding with Tower Mint moving forward on the process to be followed and the time it may take for all the necessary steps to be taken and the coin order to be Gazetted and brought into force. A forward plan timetable of future Commemorative Coin issues has been produced by Tower Mint and agreed to allow sufficient time for this to occur before the coins are distributed and sold.

It is recommended that when/if the Coin Validation Bill is passed, FIG issue a press release to reassure the public that the coins are lawful.

MLA Roberts recognised that this was an administrative error, she was

content to validate, but she stated what concerned her was the broader approval process. Having seen the coins, she stated she did not like them, she noted that they did not sell locally, however they do have the Falklands on them and therefore is our reputation. She commented that the fact they have a Southern Hemisphere Christmas coin with snowflakes on it, there is something that needs to be done to improve the process, perhaps it can be drawn into the Stamp Advisory Committee in order that there is further oversight. She commented that reputationally it is not helpful to be producing coins that are not pretty. MLA Roberts noted that these are commemorative coins but commented on the effort put into the new bank notes, she stated they are different but should be reflective of the Falklands.

MLA Roberts noted within the report that Treasury do not sell commemorative coins, she assumed that it is because it was an administrative burden. She stated that it was strange that there was someone overseas designing and selling on FIG's behalf.

The Financial Secretary advised that Commemorative Coins are designed to sell to the market and collectors therefore they do come out with random designs, servicing a commercial market therefore the coins will have a design that appeal to the collector to sell. MLA Roberts raised concern that they have no control over the design, she stated that it is like stamps, a soft diplomacy and therefore should have some control. The Financial Secretary advised they have previously reviewed and declined designs, he advised that the three Commissioners have oversight, and it is processed via the Governor before the Palace signs off. The Acting Chief Executive noted that there was a high level of sign off, but she stated that the oversight could not be placed there as they would not have the same sensitivities as the Falklands and the people who represent the Falklands do. They would not wish to interfere with something that they believed comes from the Falklands and is the decision of the Falklands unless there is something fundamentally wrong. She stated that we need to think about how we can ensure that there are appropriate checks made she said she understood it is currently the Commissioners role, but there appears to be a need for an additional sense check. MLA Roberts agreed keeping the process simple with some advisory role in advance for the final decision.

MLA Spink agreed that there should be a layer for a committee oversight and that could be via Stamp Committee and have some processes in place.

Executive Council:

- (a) Approved the Coins Validation Bill 2025 for publication in the Gazette and submission to the Legislative Assembly; and
- (b) Authorised the Attorney General to make any non-substantive corrections to the draft Bill before publication.
- (c) Requested that a process be put in place to provide oversight of coin designs through a committee process.

**ACTION: FS/AG/COLA
PUBLIC**

**REF:
EXCO/LEGCO**

6 Loans (Amendment) Bill 2025 - 37-25 FS

The purpose of this report was to enable Executive Council to consider the Loans (Amendment) Bill 2025.

The Attorney General advised that when Executive Council agreed the borrowing, they looked at the existing legislation (Loans Ordinance) which contains certain requirements. He stated that one section looks to contain a typo and they need to clarify and correct that, and this is proposed via the amendment to the Bill. He advised it is to provide clarity about how the Government invests the funds that are going to be created in the “Sinking Fund” and to give the Financial Secretary the discretion in relation to those investments and the investment strategy bearing in mind its purpose.

The Attorney General advised that ideally, they would like to start with repealing the 1979 Ordinance, but they don’t have the time or capacity to facilitate that, and neither is it necessary at this stage.

MLA Ford raised in 5.4 “As part of the approach to remove ambiguity in Section 15” he asked if this was meant to be section 14? This was confirmed.

Executive Council:

- (a) Approved the Loans (Amendment) Bill 2025 for publication in the Gazette and Submission to the Legislative Assembly; and
- (b) Authorised the Attorney General to make non-substantive corrections to the draft Bill before publication.

**ACTION: FS/AG/COLA
PUBLIC**

REF: LEG 7/2

7 Review of Legal Aid Scheme - 34-25 HoC/DDCS

The purpose of this report was to enable Executive Council to consider the proposed amendments to the Legal Aid Regulations 2020.

The Attorney General advised that they have a legal scheme and a generous scheme in terms of the scope, there is the ability to access the scheme for many more issues that could be accessed elsewhere. He advised that they haven’t kept the thresholds for eligibility under review and some have remained static since 2017. Legal Practitioners have raised issues with the Court services as they believe there are more people who should be able to fall within the safety net of the legal aid scheme but aren’t as the thresholds have not been kept up to date.

He advised that the Court service did carry out a consultation, and that this report is as a result of that work. He stated that it does make sense

to review the thresholds, he commented that the recommendations are sensible. At the same time, there has been a review of the hourly rate that pays for legal aid work and although it seems generous and allows the practitioners to provide that service, the rate has not been reviewed also since 2017, and a sensible approach has been taken.

MLA Roberts commented that the access to justice is really important, and she supported the recommendations. She did not think from reading the report that the rates for legal aid support was overly generous. The Attorney General advised that Court services are quite guarded of the scheme and the rates, he commented that they should approve the proposed increases, but also to ensure that there are regular reviews. He suggested that in advance of the budget process annually, the Courts be asked to do a consultation of the practitioners on rates to enable that to feed into the Budget Select Committee decisions.

MLA Ford supported the recommendations.

MLA Spink commented that he supported the recommendations he asked for assurances that they had been consulted with stakeholders. The Attorney General advised that they had and that letters were attached to the report, and everyone had been written to by the Head of Courts.

MLA Roberts asked how this work would fit within the drafting priorities. The Attorney General advised that he was of the view that it could be dealt with in the Finance Bills, but if there is anymore requirement to that it can be reported in the drafting priorities.

Executive Council:

- (a) Authorised amendments to the Legal Aid Regulations 2020 to revise the eligibility criteria for assisted persons under the legal aid scheme.
- (b) Authorised amendments to the Legal Aid Regulations 2020 to revise the fees payable to the legal practitioners under the legal aid scheme.
- (c) Agreed to add to the Legislative drafting programme for 2025-2026 amendments to legislation as necessary to give effect to the policy decision.
- (d) Agreed that the legislative drafting is a high priority.
- (e) Noted that the Head of Courts & Tribunals Service will work with Legal Services to develop drafting instructions to implement the policy.
- (f) Requested that an annual review of the fees is undertaken to feed into the Budget process.

ACTION: DDCS/HoC/AG

PUBLIC

REF: TEL 1/1B

- 8 **Proposals for consideration following the recommendations of the Select Committee in relation to VSAT Licence Fees - 41-25 DDCS**

Executive Council deferred the report for consideration until Friday 28 February 2025 with an updated report to be circulated.

**ACTION: DDCS
NOT PUBLIC**

REF: AIR 34/11

- 9 **Sao Paulo Commercial Flight Agreement - 40-25 DDCS**
The Director Development Commercial Services attended.

The purpose of this report was to enable Executive Council to consider the progression of commercial negotiations to contract stage.

REDACTED

Executive Council did not approve recommendation (a) but approved the remaining recommendations as outlined in the report.

**ACTION: DDCS
NOT PUBLIC**

REF: SHIP 44/2

- 10 **Port Replacement Project: Contractor Option for Access Road and Causeway - 32-25 DDCS**

The Director Development Commercial Services attended.

The purpose of this report was to enable Executive Council to consider contractual options for the access road and causeway.

REDACTED

Executive Council approved the recommendations as outlined in the report.

**ACTION: DDCS/SPPO
NOT PUBLIC**

REF: HOU 16/1

- 11 **Lease of Chauffeurs Cottage (Government House) - 39-25 DDCS**
The Director Development Commercial Services attended.

The Acting Governor declared an interest.

The purpose of this report was to enable Executive Council to consider lease of Chauffeur Cottage.

The Director Development Commercial Services advised that an initial report was submitted to Executive Council towards the end of 2024 and requested a revised set of options for the lease of Chauffeurs Cottage to the Government of South Georgia and South Sandwich Islands. All Members have been briefed on the revised options, there is a rental agreement to be put in place for up to 20 years, 10 years with a

break clause and a further 10 years by agreement with an uplift of over the first 5 years of RPI or 2% whichever is greater and then recurring after 10 years at higher lease sum on the assumption that repairs needed under the initial lease arrangements would have been carried out at that point.

The Director Development Commercial Services advised that this is the best recommendation that can be made, and it is believed that this is the best use of that building. Other options for its use would be for using in the housing pool or demolishing which would have either limitations or costs that don't need to be borne and that the proposal makes good use of a government asset and guarantees it to be a good state and generate a level of return of a period of mutual investment by the tenant.

MLA Spink commented that his view hasn't changed as he did not believe that it is good value for the Falklands taxpayer, but he does accept that his Colleagues are in the majority on this, but he wished to make his concerns that certainly for the first few years it should have been a flat rate through but wasn't agreed by others.

The Attorney General commented that it is quite normal for commercial lease or property, if the tenants are going to be making investments in improving the property, that they would effectively be given a rent holiday.

MLA Spink agreed, but stated that if that was his property, he would not be charging commercially, £1400 a year for the first five years. The tenant would be charged a more reasonable rent and still undertake any improvements, that was his commercial view of having to do the business. MLA Spink advised that he did not support the recommendations.

MLA Ford advised that he supported the recommendation, he commented that the discounted rent would give them a saving of £67,500 which he would hope would be more than enough to undertake the renovations. On the inflation figure that would be used, he checked as was told that they would use the same September RPI figure that is used for the budget. The 10 year break would give the option to end the tenancy at that point.

MLA Roberts commented that she was opposed to the initial proposal, she felt this was far better and gave a better return to the Government and gets the building repaired and back into service. She commented that it is still a generous offer, but she was content to support it given all the other constraints on the building because of its location etc. She advised that her preference would have been to see it go to the open market, but this is a practical way forward. On the building she queried whether it would be just offices or accommodation. The Acting Governor advised that it would be just offices as far as he was aware. MLA Roberts commented that if accommodation this would have released some of the rental properties. She supported the recommendations.

Executive Council (2-1 vote):

- (a) Approved the proposed granting of a 25-year lease, with a 10-year break clause and the further option of future 10-year extensions by mutual agreement, of the property known as 'The Chauffeurs Cottage – Government House' to the Government of South Georgia and the South Sandwich Islands.
- (b) Approved the application by the Government of South Georgia and the South Sandwich Islands for a licence to hold land in the Falkland Islands, a requirement of the lease of the 'Chauffeurs Cottage'.
- (c) Authorised Government Legal Services to carry out any relevant negotiations in respect of the finalisation of the lease agreement.

**ACTION: DDCS/DPW
PUBLIC**

REF: GSO 1/2

12 **Islands Plan 2022-26 Delivery Plan Update (Q1-Q2 FY 2024-25) - 30-25 DPECS**

The purpose of this report was to provide and update to Executive Council on the delivery of the Islands Plan 2022-26.

The Acting Chief Executive advised that in line with the Government's commitment to transparency, openness, and accountability the report provides the fifth progress on the delivery of the Islands Plan objectives. The report contained progress of the delivery plan from Quarter 2 - 2023/2024 to Quarter 2 - 2024/2025 and reflects on the progress made since Members and CMT met in January 2024 to discuss the prioritisation of objectives in the Islands Plan.

The Acting Chief Executive advised that the report picks out 10 key areas of significant progress that have been made since Q2 2023/2024 and nine actions where there have been significant delays or where it's very unlikely that they would be delivered.

A second Members/CMT meeting on progress was held on 17 February, however due to the EXCO Paper deadline, they weren't able to include the discussion from that meeting into this report. She advised that this report was very much for noting and documenting the progress against the Islands Plan objectives.

MLA Ford asked in respect of 4.9.7 – Review Effectiveness of Regulator Role and its redaction. The Attorney General advised that he did query the redaction of the paragraph, he said he believed the reason for the redaction was that the issue related to an individual, who could be easily identified. He commented that he did not believe it was a problem for it not to be redacted. MLA Roberts commented that it wasn't really speaking about an individual but the post. It was agreed that the paragraph could be un-redacted.

MLA Spink advised that his only comment would be to focus on the outcomes rather than they have received a report on an issue. The Acting Chief Executive advised that they had a very good discussion about learning from this delivery plan and there were lots of messages taken away from Officers and Members to consider future approaches.

The Acting Governor asked whether there would be a further report to wrap up prior to dissolution. The Attorney General advised that the Islands Plan runs until 2026 as a new plan would not be set until early 2026.

MLA Roberts commented that the session they had was very useful, she stated that they are on a journey with this and having a delivery plan that is public and reported on is a long way from where they were 7 years ago. It is a lot of progress, but there are ways that it can be improved, and every Assembly would seek to improve.

MLA Roberts commented that there are some areas that could have a little more explanation for instance – the constitutional review, it just states Members started to stop it. She would suggest that it said “because of pressures in the system” not that it was not considered a priority, but it was simply realistically not being able to do it. The Attorney General advised that they would, have the opportunity as they do need to finish off that process so there will be an opportunity to explain.

The Acting Governor noted that Torin Harte, Management Trainee was the author, he asked when he would complete his traineeship. The Acting Chief Executive advised that they are in their second year completing around June and then they are able to enter into the transition, but Torin is hoping to undertake his Masters. He will therefore join the academic year in whichever university he decides.

Executive Council noted the contents of the report.

**ACTION: DPECS
PUBLIC WITH REDACTIONS**

**REF: CON 1/35,
NAT 31/10**

13 UK Overseas Territories Biodiversity Strategy - 16-25 DPECS

The purpose of this report was to enable Executive Council to consider the UK Overseas Territories Biodiversity Strategy.

The Acting Chief Executive advised that the UK Overseas Territories Biodiversity Strategy of which the Falkland Islands is one of the Overseas Territories that feature within it. She advised that it has been produced by the UK Government and the Falklands have been consulted on the areas that pertained to the Falklands, the idea being that they are able to make representation through the strategy for areas to prioritise for future investment and support for particular biodiversity related projects.

The strategy will provide a tool to guide and attract future, long-term investment in the conservation needs of each OT and may inform UK

environmental support schemes such as Darwin grants, which the Falkland Islands regularly benefits from. The purpose of the report is to seek endorsement from Executive Council, the Government are being clear that this does not bind the Government to carrying out any specific action, the strategy provides a framework but that any further requests for projects or funding would revert to Executive Council and will be judged on their own merits.

The Acting Chief Executive commented that it is not just about the Falkland Islands Government, but is a wider piece, noting that other Falkland Island organisations deliver in a number of areas either supporting partner organisations or on their own deliver some of the ambitions within the strategy.

The Acting Governor commented from the UK perspective he would endorse the words of the Acting Chief Executive, he stated that this viewed as a lens through which UK Government departments (in particular, DEFRA) will look on future funding bids and ensure that projects align with both this strategy and Government own environment strategies.

MLA Roberts commented that it is a high level commitment to supporting the Overseas Territories Biodiversity. Members were involved in calls with Ministers and UKOTA in respect of this. She agreed the need to reinforce with the UK Government the importance of the programmes, the Darwin grants, and others where there are long term commitments. She was pleased to see this come forward; it also aligns with the Islands goals.

MLA Spink agreed that this is something they should sign up to support, as a strategy it is not committing the Falklands financially but is important to show support.

The Attorney General raised some typos within the strategy – page 59 “encourage collaboration and innovation for responsible management and sustainable use of the natural environment, based on local priorities (such as the fisheries corporation)” he commented that he thinks this was meant to say “co-operation”. The Attorney General advised that he sent through quite a bit of feedback. The Acting Chief Executive suggested that be taken away to ensure it is corrected.

The Acting Chief Executive advised that they are making it very clear in Executive Council report that they do not believe the strategy is committing the Government, it is a tool to facilitate access to UK Government funding.

Executive Council endorsed the UK Overseas Territories Biodiversity Strategy, including approval of the Falkland Islands national priorities, set out on pages 59 and 60 of the Strategy subject to final checks of typographical errors.

**ACTION: DPECS/HoE
PUBLIC**

REF: IMM 31/4

14 **Immigration Review: ADP - 25-25 DESIS/PIO**

The purpose of this report was to enable Executive Council to consider the refusal of an accompanied dependent permit.

REDACTED

Executive Council agreed to uphold the decision of the Principal Immigration Officer to refuse the application for Accompanied Dependent Permit

**ACTION: DESIS/PIO
NOT PUBLIC**

REF: LND 17/14

15 **Application for a licence to purchase an existing property or building plot in Stanley - 17-25 AG**

The purpose of this report was to enable Executive Council to consider an application for a licence to purchase an existing property or building plot in Stanley.

REDACTED

Executive Council refused the application; both in respect of either an existing property in Stanley, or a building plot for development in Stanley on the basis that there is a real and recognised scarcity of both existing housing and residential building plots for the permanent population.

**ACTION: AG/SLO
NOT PUBLIC**

REF: AGR 10/2

16 **Amendment to Legislation and Related Documents for Emergency Animal Disease Measures - 24-25 DNR/AG**

The purpose of this report was to enable Executive Council to consider amendments to the legislation for Emergency Animal Disease Measures.

The Acting Chief Executive reminded Executive Council that there was a National Contingency Plan for Emergency Animal Disease (which was approved in principle in 2022 as a bespoke plan) to follow in the event of an emergency, infectious, animal disease outbreak. There is a legal requirement under section 14A of the Animal Health Act 1981 (as amended) and it outlines the roles and responsibilities, actions and recovery guidance that should be followed in the event of emergency animal disease.

The Animal Health (Emergency Measures for Outbreaks of Infectious Diseases) Order 2022 was made to provide powers to the Director to make appropriate emergency restrictions and requirements to be imposed on the movements of people and animals in or out of suspect and infected places, in order to support the implementation of the Emergency Plan.

Following the arrival of avian influenza in the Falkland Islands there has been a need to make minor adjustments to the Order, she stated that this is one of those cases where something was put in place, they've lived the experience and then reviewed it and found there needed to be tweaks. The Acting Chief Executive advised that it is unfortunate, but this has been the third time they have had to come back to refine the order to make sure that it provides all the powers that are needed.

This report proposes making a further amendment to the Order which will enable the Director to restrict movements in public places as well as private place. Previously they requested an amendment to allow for restrictive access to private place and public places was omitted.

The Attorney General commented that it seems sensible, they have activated the measures in practice, they've reviewed how they have worked, it's been decided that it doesn't quite work in the way that they want and therefore it is being refined. He stated that it is a good way to deal with the issue and the team are comfortable with what they are proposing.

MLA Spink commented that this is one of the few areas of legislation that they've put through and people are coming back to refine it rather than just living with it.

MLA Ford supported the recommendation.

MLA Roberts commented that it is really positive and reassuring that the team are responsive and keeping an eye on where there are changes required and bringing those forwards.

MLA Roberts referred to section 6 and consultation via the "Wildlife Disease Response Group" she stated that she counted 10 in the group, but they only received 4 responses. She stated that this is significant legislation and if people are on a group like that, they should be reviewing the documentation and responding. MLA Roberts supported the recommendations.

Executive Council:

- (a) Approved the attached draft Animal Health (Emergency Measures for Outbreaks of Infectious Diseases) (Amendment) Order 2025 (Annex 1); the revised Biosecurity Guidance (Annex 2); National Contingency Plan for Emergency Animals Diseases (NCPEAD) (Annex 3); and
- (b) Authorised the Attorney General to correct typographical errors and non-substantive drafting errors found in the Animal Health (Emergency Measures for Outbreaks of Infectious Diseases) (Amendment) Order 2025 prior to signature.

**ACTION: DNR/SVO/AG
PUBLIC**

This report was deferred to Friday 28 February 2025.

REF: LEG 31/3

18 **Company law amendments: Company Beneficial Ownership Transparency - 43-25 AG**

The purpose of this report was to enable Executive Council to consider the draft policy to meet the requirements set by section 51 of the Sanctions and Anti-Money Laundering Act 2018.

The Attorney General advised that this is an area that they have to progress, he commented that it has taken a lot longer to progress, but that has been due to its lack of priority over other work.

He advised that at this stage this is the best point they can get to, and they will progress legislation at the earliest opportunity. He advised that the Government are committed to making available to the public details about the beneficial ownership of companies registered in the Falkland Islands. He advised that they are proposing there will be administrative guidance around withholding publication and in addition to the grounds on which information is withheld in the UK, which mainly relates to threats of serious crime involving the individual if their addresses and identities were revealed. **REDACTED**

The Attorney General advised that the local companies, Chamber of Commerce accept that this is something that is becoming more of the norm elsewhere in the world and something that the Government and businesses should support providing proper protections are in place.

The aim would also be to minimise the resource required for implementation. He advised that for most of the companies, the shareholders are the beneficial owner and are listed in the returns that are provided annually, this will therefore be a tick box. If there are different arrangements, the company returns would need to be more specific.

REDACTED

MLA Spink advised that Richard Hyslop has a meeting with the Foreign Select Committee on the 4th March when he will be questioned on this subject, the Government also made the commitment that by April there would be some information release, he asked if there was an indication of what they will be able to provide by April. The Attorney General advised that by April it will be in the legislative drafting process, however it is unlikely to be finished. He advised that he would, ensure that Richard would have updated information that he would be able to share.

The Acting Governor said he understood that there was a cross OT summary that will be submitted to Minister Doughty next week. He advised that he would, feed into where they are. The Attorney General commented that there was a proportionality issue, he stated that they do not have hundreds of companies or organised crime doing business etc. He stated that it is not a lack of commitment to do this.

Executive Council:

- (a) Approved the Policy on Company Beneficial Ownership Transparency at Annex 3 that is aimed at establishing a publicly accessible register of beneficial ownership of companies in the Falkland Islands; and
- (b) Authorised the Attorney General to draft legislation that is required to establish a publicly accessible register of beneficial ownership of companies in the Falkland Islands.

**ACTION: AG
PUBLIC**

REF: LEG 31/3

19 Audit Thresholds for Small Companies - 44-25 AG

The purpose of this report was to enable Executive Council to consider the proposed amendments to the law relating to companies following a review of audit thresholds.

The Attorney General advised that they received a request from the Chamber of Commerce to raise the thresholds at which companies are subjected to an independent audit requirement. He advised that the response at the time was that it was not a priority, but should they do any companies changes it would be reviewed.

He advised that the thresholds have not been reviewed since 2006. The Chamber have asked for two things (1) that the thresholds be raised (2) requested that a grace period to be introduced, should a company tip over the thresholds in one year, they are not subject to the audit at the end of that financial year. The Attorney General advised that if they need to arrange audits, they would, want auditors to be part of stock takes and processes that they would want to put in place that cannot be done retrospectively at the end of the year. The Attorney General advised that the UK agreed and put in place such a process some years ago, and that it is a reasonable request.

The Attorney General advised that having looked at the request, he felt that there was an easy way in which to implement the “grace period” in the same way that the UK did in the changes to the 1985 Companies Act and incorporated into the 2006 Act.

The Attorney General commented that whilst the Chamber had asked for the thresholds to be doubled, he felt that the sensible approach would be to double them again. He advised that they had suggested in 2020 that the thresholds be raised to £3M turnover from £1.5M and £2M balance sheet from £1M, he stated that £6M and £3M would reflect the change since the legislation was put in place since 2006 but would also give some headroom in the future.

The Attorney General advised that he consulted with the Tax Office whether it would give them some concern around more of the smaller companies being exempted from audit requirements and they did not

feel it would make any material difference from the work they do.

MLA Spink queried the doubling of the turnover from £3M to £6M, but the balance sheet from £2M - £3M. The Attorney General corrected the error £2M. He advised that thresholds in the 1985 Act are £5.6M and £2.8M and he was proposing to round those up to £6M and £3M. He advised that at the same time, they would also review the fines and penalties in the 1948 Act that have not been changed since 1948. He noted that the Chamber were not supportive of that review but recognise that it is reasonable. He commented that the proposed rises are reasonable considered the period since last review and won't require changes for some time and if they do, they can be changed to the standard scale rather than the various fines in the 1948 Act.

MLA Roberts commented that it good that it is being reviewed, the year's grace is a good idea. She raised the regular reviewing, she asked how that would happen and whether they need to put a process in place to ensure that it is looked at on a regular basis. The Attorney General commented that the UK changes the thresholds between every 6-12 years and that could be aligned, it is not annually.

MLA Spink queried whether for Government subvention bodies that may fall within the threshold, would they be changing the requirement. The Attorney General and Acting Chief Executive advised that it was not only a requirement under their individual statutory legislation but also a requirement under the Constitution. The Attorney General advised that FIMCO was slightly different, but he wasn't sure where they sat on the turnover and balance sheet.

Executive Council:

- (a) Agreed in principle to the changes proposed in Paragraphs 5.1 to 5.9 of this report;

“5.1 The first option is to make the changes described below.

These changes are recommended. It is considered that it is the right time to make the amendments, and that this should be prioritised for action. It is important to review any cash values contained in legislation to ensure that they remain appropriate, as the value of cash changes over time. This is also the right time to prioritise this work as we are required to make other amendments to companies laws, and the marginal impact of making the changes proposed below is considered to be minimal. If we do not make the changes, then there are two impacts. Firstly, in relation to audit thresholds, increasingly smaller companies will be required to secure independent audit of their accounts. This is a disproportionate burden on those companies, and increasing the burden on small companies is likely to constrain growth, harming the wider economy. There is a separate proposal for a law revision project to consolidate companies laws, and this would provide a further opportunity to update provisions, should any

problems be identified in due course. There is little to no audit capacity in the Falkland Islands, so, although the proposal could reduce the market for audit services in the Falkland Islands, auditors are wholly or mainly engaged from overseas, and this is therefore not likely to have any adverse impact on firms operating in the Falkland Islands.

5.2 Secondly, in relation to the fine levels set in the 1948 Act, these were set eighty years ago. According to the inflation calculator on the Bank of England website, £1 in 1948 is equivalent to £30.82 in January 2025. Whilst this is illustrative and for general reference only, it is a useful source to provide some guidance as to what we should now do. The fines are not considered to be meeting their purposes to prevent and to punish offending.

5.3 It is not necessary to set out in this report all of the provisions of the 1948 Act in which fine levels are specified. It is sufficient to note that the fines breakdown into the levels set out in the table below. Also set out in the table is the proposed new “level” for each offence. Whilst these do not tally precisely with the inflated level, particularly at the lowest and highest levels proposed, it is considered that they are reasonable for meeting the purposes of each fine.

1948 Fine Levels	Bank of England Inflation calculator	Proposed new fine on standard scale	Current standard scale fine
£2	£61.64	Level 1	£250
£5	£154.10	Level 1	£250
£10	£308.20	Level 2	£500
£20	£616.40	Level 3	£1,000
£25	£770.5	Level 3	£1,000
£50	£1,541	Level 4	£2,000
£100	£3,082	Level 6	£10,000
£500	£15,410	Level 8	£25,000

Table 1

5.4 In relation to audit thresholds, there are two related provisions. Firstly, the qualifications for a company to be classed as a “small company”. Secondly, the provisions exempting certain small companies from the audit requirement

5.5 For a company to qualify as a small company, it needs to meet the requirements set out in section 247 of the 1985 Act (as applied to the Falkland Islands), the qualifying conditions are to meet two or more of the following (in a particular financial year and the preceding financial year – thus incorporating the concept of a “grace period”):

- (a) Turnover – not more than £5.6million
- (b) Balance sheet total – not more than £2.8million
- (c) Number of employees – not more than 50.

5.6 In order to qualify for exemption from audit, however, a company need to meet the requirements of section 249A of the 1985 Act (as applied to the Falkland Islands). These are that in respect of a financial year (thus not including any “grace period”) a company must:

- (a) Qualify as a small company (as described above),
- (b) Turnover (in that year) – not more than £1.5million
- (c) Balance sheet (for that year) – not more than £1million

5.7 It is proposed that, similar to the current UK provisions, the qualification for the audit exemption should be simply that the company meets the qualification as a small company. It will be for the legislative drafting process to determine how best to give effect to this, but it may simply be sufficient to disapply section 249A(3)(b) and (c). It is then proposed that the qualification for a small company should be amended to require all three of the conditions in section 247(3) (rather than two out of three), and

- (a) The turnover should be amended to not more than £6million; and
- (b) The balance sheet total should be amended to not more than £3million.

5.8 There are also provisions in relation to small groups of companies, and it is proposed that the thresholds to qualify as a small group in section 249 of the 1985 Act are similarly uplifted to the same amounts, “net” as for the qualification as a small company, and an appropriate proportionate uplift is made to the “gross” amount.

5.9 It is further suggested that the Attorney General should be authorised to provide in the draft legislation for such further changes as he thinks fit, on the understanding that all changes are explained when the Bill(s) are presented to Executive Council.”

- (b) Authorised the Attorney General to arrange for legislation to be prepared to implement the approved changes, and to consult the Chamber of Commerce on the draft legislation before it is presented to Executive Council for approval.

**ACTION: AG
PUBLIC**

REF: MED 1/2

20 **Update to EXCO 80/23 Tussac House Fair Charging Proposal - 26-25
DHS**

The purpose of this report was to provide an update to Executive Council on the Tussac House Fair Charging Proposal.

The Acting Chief Executive advised that this report is a follow on to update Executive Council in respect of report 80/23 Tussac House Fair Charging Proposal. She advised that the reason this was being brought back was that they have gotten themselves into a situation where there is unfair charging when they take into account Tussac House and Sheltered Housing. Therefore, the purpose of this report is to align so that everyone is treated the same across all residential accommodation whether it is Tussac House or other Sheltered accommodation. The report also provides options for Members to decide on charging for day care centre use, which has become controversial. The options as per the original report is to place a charge or to not charge anything, bearing in mind the total amount of revenue that is likely to recover is c£6,000.

MLA Roberts commented that the alignment of Tussac House and Sheltered Accommodation proposal is fine. The day centre charge, given that it is such a minimal amount of money, and the report also highlights the administrative burden in collecting such a tiny amount of money and the fact that the day centre would provide an important social facility for the elderly, she stated that she would not wish to see anyone held back from using the facility because of the charge and therefore she would support the option of not charging.

MLA Roberts raised in recommendation (b) and 7.1 second paragraph, it discussed the full and half day rates and the charges respectively, but they are backwards – it should read £4 and £2.

MLA Ford commented that he did not believe it was unreasonable to be charging a small amount for the use of a wonderful facility, he appreciated that they did not want people who should be using the service deterred from using it by the charge, but it is very little and hopefully they would not be. He stated that he felt it was reasonable for them to make a small contribution towards the cost even though it generates a small amount of money, he stated it's the principle.

MLA Spink advised that he was veering towards agreeing to the charge until he read the equalities and human rights implications “The charge in respect of day centre attendance is only levied to non-residents of Tussac House. It could therefore be viewed as an additional burden to residents living in sheltered housing, or the community. However, the

impact of this will be lessened by a proposed alignment of sheltered housing and Tussac House rental charges from 1st July 2025, which will be forthcoming in the budget setting cycle.” He stated that if those people are paying the same as to live in Tussac House, he would be inclined to waive the charge as they will be treated the same way.

The Acting Chief Executive advised that the tenancy agreements will all be aligned, and the day care centre would be free to residents in Tussac House but not free to non-residents and therefore this creates a misalignment again.

MLA Spink commented that there should be one charge for rent which would include access to the facilities.

Executive Council:

- (a) Approved that section 4.6.4 of ExCo report 80/23 is revoked *“Any changes to charges will be communicated to residents not less than 90 days before the changes are made. Unlike regular tenancy arrangements, FIG retain the right to review the rates on an annualised basis; in line with the budgetary cycle, and financial year which runs from 1 July – 30 June, yearly. This means if an individual takes up residency part way through the year, their rent is still subject to change (with 90 days’ notice) even if only part of the year’s tenancy has elapsed”* and it is instead specified that residence (rent) and service charges are communicated to residents and administered as specified in section 8 of the resident’s agreements; with reviews of the charges occurring in the FIG budget setting process, and the resident’s agreements being regularly reviewed to be aligned with any relevant future changes to FIG tenancy agreements.

- (b) Approved that the agreed charges for day centre services (full and half day) are revoked and that day centre attendance remains free of charge.

**ACTION: DHS
PUBLIC**

REF: EXCO 6/1

21 **Clerk of the Councils’ Report: 1 October – 31 December 2024 - 31-25 CE/COLA**

The purpose of this report was to provide an update to Executive Council on activities of bodies discharging executive decision-making responsibilities on behalf of Executive Council and decisions made under section 66(2) of the Constitution.

This was a starred report and was therefore taken as read and approved without discussion.

**ACTION: CE/COLA
PUBLIC**

22

ANY OTHER BUSINESS

REF: EXCO 6/1 22.1 **Email from UK Veteran**

REDACTED

REF: EXCO 6/1 22.2 **Date of Next Meeting**

Friday 28 February 2025, 10am