

REPORT TO BUSINESS SERVICES COMMITTEE - THURSDAY, 18 APRIL 2024

REVIEW OF COMMON GOOD POLICY COMMUNITY EMPOWERMENT (SCOTLAND) ACT 2015 - CREATION OF COMMON GOOD REGISTER

1 Executive Summary/Recommendations

- 1.1 Aberdeenshire Councillors act as “Custodians” of the Common Good Funds in Aberdeenshire, which is like their role as “Trustees” in respect of the Trusts administered by the Council.
 - 1.1.1 There are 17 Common Good Funds covering different parts of Aberdeenshire. There is no Common Good Fund that covers Aberdeenshire as a whole.
 - 1.1.2 The Common Good Funds are administered by the relevant Area Committee in terms of Section B2 of [Part 2A](#)¹ of the Scheme of Governance – List of Committee Powers.
 - 1.1.3 All Policy decisions relating to Common Good sit with the Business Services Committee in terms of Section C2.6 of Part 2A of the Scheme of Governance.
 - 1.1.4 [Part 4B](#)² of the Council’s Scheme of Governance – Policy Development and Review Framework establishes a process for the review of Council Policies once they have been established [Section 3.6].
 - 1.1.5 A review of the Council’s [Common Good Policy](#)³ fell due to be undertaken in 2023, as identified by this Committee’s list of policies for review. This review will be conducted in compliance with the requirements of Part 4B of the Scheme of Governance.
 - 1.1.6 An Internal Audit report of Trusts and Common Good has also been published in 2023 seeking to build and improve on the good practice established under the current Common Good Policy.
 - 1.1.7 The Council also has a legal duty under [Section 102](#)⁴ of the Community Empowerment (Scotland) Act 2015 (“2015 Act”) to publish a Register of Common Good Property and Assets. Work to establish this Register has been undertaken alongside the review of the Common Good Policy.

¹ <http://publications.aberdeenshire.gov.uk/dataset/c8044f6f-e327-499f-bbc7-94ae9d699559/resource/13a6ffc6-dda1-4410-b43f-9d053688b4a0/download/list-of-committee-powers.pdf>

² <http://publications.aberdeenshire.gov.uk/dataset/c8044f6f-e327-499f-bbc7-94ae9d699559/resource/0118bb67-2c5e-4725-bde9-683f1b393060/download/policy-development-and-review-framework.pdf>

³ <https://www.aberdeenshire.gov.uk/media/22530/common-good-policy.pdf>

⁴ <https://www.legislation.gov.uk/asp/2015/6/part/8/crossheading/registers/enacted>

1.1.8 This report seeks to inform the Committee of the outcome of the review of the Common Good Policy and public consultation on the creation of the Common Good Asset Register.

1.2 The Committee is recommended to:

- 1.2.1 Agree that no changes are required to the terms of the current Common Good Policy;**
- 1.2.2 Acknowledge the creation of a new Common Good landing page on the Council's website and the proposed use of social media to highlight the location of the webpage and the availability of common good funds;**
- 1.2.3 Endorse that officers report to the relevant Area Committees on an annual basis on the Asset Register, Common Good financial information and applications made and the benefit arising from those applications;**
- 1.2.4 Endorse the online publication of the Common Good Asset Register and acknowledge that information on how to access the Register will be circulated to Service Points and Libraries. Paper copies will also be available on request; and**
- 1.2.5 Acknowledge that the Common Good Asset Register will identify the type of asset registered.**

2 Decision Making Route

- 2.1 An initial report seeking approval to conduct the review of the Common Good Policy and to seek the public's views on the creation of a Common Good Asset Register was considered by this Committee at the meeting on [20th April 2023](#)⁵.
- 2.2. The Policy review followed the process set out in the Policy Development and Review Framework in [Part 4B](#) of the Scheme of Governance.
- 2.3 Area Committees were consulted as part of the engagement process on the review.
- 2.4 This report seeks to finalise the review process.

⁵ <https://aberdeenshire.moderngov.co.uk/ieListDocuments.aspx?CId=152&MIId=7534&Ver=4> [item 9]

3 Discussion

Common Good Policy

- 3.1 The last review of the Common Good Policy was approved by this Committee in 2017. It has now been reviewed and it is acknowledged that the review has taken longer than anticipated to complete.
- 3.2 Internal Audit conducted a review of Trusts and Common Good Funds for the Year 2022-23. A final report was published on 28th February 2023, and presented to the Audit Committee on 22nd March 2023 ([Item 6 – Appendix F](#)⁶). The Chief Internal Auditor advised that the report provided a positive outcome and that substantial assurance had been provided over what was classed as a minor risk area. The report identified 2 recommendations, 1 of which related to the Common Good Policy as follows:
- Legal and People to arrange for the Common Good Fund Policy to be reviewed as a matter of best practice.
- 3.3 The review also considered enhancing publicity about Common Good Funds and the application process to raise awareness of the availability of the Funds at community level.
- 3.4 The current Common Good Policy is attached as **Appendix 1** to this Report. The procedural documents that support the policy have not been attached to this report as they were attached, for information purposes only, to the reports circulated to the Area Committees and links to those reports have been embedded within this report.

Register of Common Good Property and Assets

Overview

- 3.5 [Part 8](#)⁷ of the 2015 Act aims to "increase transparency about Common Good assets and community involvement in decisions taken about their identification, use and disposal".
- 3.6 [Section 102](#)⁸ of the 2015 Act places a duty on the Council to establish and maintain, after consultation, a register of property which is held by it as part of the Common Good.
- 3.7 [Section 104](#)⁹ of the 2015 Act imposes the requirement for public consultation before the disposal or change of use of a Common Good property.

⁶ [Meeting of Audit Committee on Wednesday, 22nd March, 2023 - Aberdeenshire Council \(modern.gov.co.uk\)](#)

⁷ <https://www.legislation.gov.uk/asp/2015/6/part/8/enacted>

⁸ <https://www.legislation.gov.uk/asp/2015/6/part/8/crossheading/registers/enacted>

⁹ <https://www.legislation.gov.uk/asp/2015/6/section/104/enacted>

- 3.8 [Statutory Guidance](#)¹⁰ published by the Scottish Government sets out the procedure for establishing the Register, and for subsequent consultations on the use or disposal of common good land and places duties on the Council in relation to the creation of the Common Good property.

Engagement Exercise

Committee Consultation

- 3.9 The Area Committees were consulted as part of the consultation process as follows:

Banff and Buchan – [13th June 2023](#)¹¹

Marr – [13th June 2023](#)¹²

Buchan – [20th June 2023](#)¹³

Garioch – [20th June 2023](#)¹⁴

Formartine – [27th June 2023](#)¹⁵

Kincardine & Mearns – [27th June 2023](#)¹⁶

As a result of the lack of awareness of what Common Good is, the reports to Area Committee included a summary of background information for Members on Common Good, which formed Appendix 1 to the Area Committee Reports. Links to the Committee Reports have been included above, so the information is not reproduced with this Report.

- 3.10 The responses of the Area Committee are attached as **Appendix 2** to this Report. The following themes emerged from the responses:
- Members, in the main, were happy with the terms of the Common Good Policy in its current format;
 - The need for greater transparency and clearer information on Common Good;
 - The proposal for better reporting on Common Good to include assets, financial information and feedback;
 - The Register of Assets to include reference to the type of asset held;
 - An assumption that all historical assets, such as regalia, artwork, cannons, held by the Council are Common Good assets;

¹⁰ [https://www.gov.scot/publications/community-empowerment-common-good-property-guidance-local-authorities/#:~:text=is%20common%20good,-Community%20Empowerment%20\(Scotland\)%20Act%202015,their%20identification%2C%20use%20and%20disposal.](https://www.gov.scot/publications/community-empowerment-common-good-property-guidance-local-authorities/#:~:text=is%20common%20good,-Community%20Empowerment%20(Scotland)%20Act%202015,their%20identification%2C%20use%20and%20disposal.)

¹¹ <https://aberdeenshire.moderngov.co.uk/ieListDocuments.aspx?CId=143&MId=283&Ver=4> [item 10]

¹² <https://aberdeenshire.moderngov.co.uk/ieListDocuments.aspx?CId=157&MId=296&Ver=4> [item 7]

¹³

<https://aberdeenshire.moderngov.co.uk/CeListDocuments.aspx?MID=3683&F=Meeting%24SubIndex%24embed%24%201.htm&DF=20%2f06%2f2023&A=1&R=0> [Item 6]

¹⁴ <https://aberdeenshire.moderngov.co.uk/ieListDocuments.aspx?CId=150&MId=290&Ver=4> [Item 7]

¹⁵ <https://aberdeenshire.moderngov.co.uk/ieListDocuments.aspx?CId=147&MId=289&Ver=4> [Item 7]

¹⁶ <https://aberdeenshire.moderngov.co.uk/ieListDocuments.aspx?CId=145&MId=293&Ver=4> [item 6]

- The need for further information for Members on what Common Good is and their role in relation to Common Good, to aid their understanding so that they can engage in a more informed way with their local communities.

Public Consultation

- 3.11 Officers used the engage platform to engage with members of the Public and with Community Councils and other community organisations identified by the Area Manager's Teams across the Council. Seven responses were made in relation to the public consultation. An extract from the Engage Platform outlining the responses made forms **Appendix 3** to this report. The Appendix is fronted by a table summarizing the responses made. This table also includes questions lodged by an individual Councillor as part of the process. The following themes emerged from the responses made:
- Respondees supported the terms of the current Common Good Policy;
 - The need for greater transparency and clearer information on Common Good;
 - Respondees supported the format of the current application pack;
 - The need for better information on who can apply, how to apply and what funds were available to apply for;

Note: The dates of the public consultation exercise shown in **Appendix 3** are incorrect. The engagement exercise ran from 1st July until 3rd October 2023. The page was visited 371 times during that period but only 7 visitors lodged responses to the consultation.

Outcomes

Review of the Common Good Policy

- 3.12 Having reviewed the responses made in relation to the review of the current Common Good Policy, Officers are making the following recommendations to this Committee:
1. No changes are required to the terms of the current Common Good Policy;
 2. No changes are required in respect of the Officer or Committee Powers set out in the Scheme of Governance;
 3. Officers will create a new Common Good landing page on the Council's website with appropriate links to the Common Good Asset Register, the Policy and information about what Common Good is and to the Area Pages on how to make a Common Good application and relevant financial information;
 4. Officers will report to the relevant Area Committees on an annual basis with information on additions/deletions to the Asset Register, financial information in respect of income and expenditure and a note of what applications have been made, reasons for any that have been rejected, amounts awarded and the benefit to the good of the community that those applications have made.

Creation of the Common Good Asset Register

3.13 Having reviewed the responses made in relation to the creation of the Common Good Asset Register, Officers are making the following recommendations to this Committee:

1. Officers will publish a Common Good Asset Register which will be found on the Council's website, either on the Common Good landing page or accessible via a link from that page to a specific Asset Register Page. It is hoped to have this live by the end of April 2024.
2. Information on how to access the page will be given to all Service Points, and Libraries and paper copies will be made available, free of charge, in line with the Council's Publication Scheme, on request.
3. The Asset Register will identify the type of asset i.e. land, art, buildings etc.

3.14 The Common Good Asset Register is a living document and shall change over time, as further research identifies other property, land, or assets the Council considers to be Common Good, or if an asset is determined by a Court to be Common Good. The Council may also remove an asset from the Register if it is no longer considered to be Common Good. The web pages will be updated to reflect any changes made to the Asset Register so that the web page reflects the current position.

4 Council Priorities, Implications and Risk

4.1 *The following Council Priorities are relevant to this report.*

Pillar	Priority
Our Environment	Resilient Communities
Our Economy	Infrastructure and public assets

4.2 The publication of the Register of Common Good Property and Assets is a statutory requirement under the 2015 Act.

4.3 The table below shows whether risks and implications apply if the recommendations are agreed.

Subject	Yes	No	N/A
Financial	X		
Staffing		X	
Equalities and Fairer Duty Scotland		X	
Children and Young People's Rights and Wellbeing		X	
Climate Change and Sustainability		X	
Health and Wellbeing		X	
Town Centre First		X	

4.4 The review has identified that the existing procedures in place for appropriate and prudent use of Common Good Funds and Assets within Aberdeenshire are appropriate. However, it also identified that there was a need to be more transparent about the processes that exist both within the Council and in relation to the communities where Common Good Funds exist.

4.5 The screening section as part of Stage One of the Integrated Impact Assessment process has not identified the requirement for any further detailed assessments to be undertaken, nor have any of the responses made to the consultation. Therefore, an Integrated Impact Assessment is not required in relation to this matter.

4.6 The following Risks have been identified as relevant to this matter on a Corporate Level, as set out in the [Corporate Risk Register](#).

:

- ACRPOO2 Changes in Government Policy, legislation and Regulation – compliance with the 2015 Act requirements
- ACRP004 - Business and Organisational Transformation – ensuring that the Common Good Policy remains fit for purpose
- ACORP006 – Reputation Management – increasing public knowledge of what Common Good, awareness of what Common Good Funds can be used for, what Common Good Assets the Council holds and how they can be utilised or disposed of

4.7 The following Risks have been identified as relevant to this matter on a Strategic Level [Business Services Directorate Risk Register](#)

- BSSR003 – We live within our means and use public money to maximise outcomes for our communities – ensuring proper administration of Common Good Funds
- BSSR004 – Our assets, property and land are managed to the best financial effect, supporting delivery of our priorities and services ambitions in the medium to long term – compliance with our duties under the 2015 Act and raising public awareness of what Common Good Assets are, how they are managed, how they can be used and how they can be disposed of.
- BSSR005 – One Aberdeenshire – creating a landing page for the public that links to all Council Services involved in processing applications for Common Good to highlight public awareness and simplify the process for people/groups needing to access Common Good Funds
- BSSR006 – Staff working close to the communities they serve – ensuring the Policy and processes assist Area Committees making informed, evidence based decisions in relation to Common Good matters under their Scheme of Governance Powers and to establish a more coherent and transparent process of providing feedback in relation to the Policy.

5 Scheme of Governance

5.1 The Head of Finance and Monitoring Officer within Business Services have been consulted in the preparation of this report and had no comments to make

and are satisfied that the report complies with the Scheme of Governance and relevant legislation.

- 5.2 The Committee is able to consider [and take a decision on] this item in terms of Section C2.6 of the List of Committee Powers in Part 2A of the Scheme of Governance which enables the Business Services Committee to approve policies for the management of common good funds under the control of the Council.

Rob Simpson

Director of Business Services

Report prepared by Fiona Stewart, Senior Solicitor (Governance)

14th March 2024

List of Appendices

Appendix 1 – Current Common Good Policy

Appendix 2 – Area Committee Responses

Appendix 3 - Public responses