

COMMON GOOD FUNDS - POLICY GUIDELINES AND ADMINISTRATIVE PROCEDURES
(Revised May 2021)

1. INTRODUCTION

Angus Council has been responsible for the management and administration of five Common Good Funds, since local government reorganisation in April 1996, namely: -

- Arbroath
- Montrose
- Brechin
- Forfar
- Kirriemuir

In order to ensure appropriate stewardship of the Common Good Funds inherited by Angus Council, policy guidelines for the use of the Common Good are set out below. These guidelines form part of Angus Council's Financial Regulations. It is highlighted that overriding anything set out in these guidelines will be compliance with relevant legal or accounting requirements which may develop over time. For example, the CIPFA Code of Practice on Local Authority Accounting details the methodology that the Council must comply with in the preparation of its accounting statements and is revised annually. This may for, example, determine which Account an asset should reside on from an accounting perspective.

2. POLICY GUIDELINES

(A) Maintaining and Enhancing Common Good Assets

In order to ensure the long-term sustainability of the Common Good Funds the following policy requirements should be adhered to:-

- (i) Officers of the Council shall ensure that Common Good Funds are maintained and enhanced, wherever practicable, through the proper management of Common Good assets. This will include a five yearly review of Common Good rentals in respect of properties leased to Council General Fund services. Properties let to external parties will be subject to commercial lease agreements that will include provision for regular rent reviews.
- (ii) A minimum balance on each Common Good revenue account shall be maintained to ensure that these are at a level sufficient to ensure the sustainability of each Fund's activity in the medium-term. The balance on each Fund's revenue account will not fall below the sums detailed below without prior approval through a report to Council:-

- | | |
|--------------|----------|
| • Arbroath | £300,000 |
| • Brechin | £200,000 |
| • Forfar | £300,000 |
| • Kirriemuir | £1,000 |
| • Montrose | £100,000 |

- (iii) In order to ensure that all Common Good heritable property is maintained to a satisfactory standard, the following procedures with regard to property maintenance should be adhered to:-

- The Common Good properties will be included in the property maintenance schedule managed by the appropriate section within Infrastructure Services for inclusion on the Council's property maintenance system. A schedule of all works which require to be undertaken in the forthcoming 3 years will be produced during the annual budget setting process;

- Property Maintenance should be the first call on available revenue account resources, particularly where these resources are limited; and
- The Director of Infrastructure, in consultation with other appropriate officers of the Council, will prepare an annual maintenance programme in accordance with the available Common Good Fund revenue account resources.

(B) Common Good Capital Accounts

Each Common Good Fund is comprised of a revenue account and capital account (except Kirriemuir). In order to ensure no diminution of the capital account, which would result in a reduction in earned income to the revenue account, the following policy requirements should be adhered to:-

- (i) Expenditure from Common Good Funds to be restricted to expenditure from the revenue account of any given Common Good Fund.
- (ii) The proceeds from the sale of any asset is to be retained and separately identified within the capital account.
- (iii) Provided it is legally competent at the discretion of the Council, and with the approval of the appropriate Committee, any proceeds from the sale of assets may be used to finance capital expenditure on suitable physical assets, should they become available, and which by their purchase would strengthen and maintain the capital account and its on-going value.
- (iv) The assets held on each Fund's capital account to be re-valued every five years.

(C) Restrictions on use of Common Good Funds within the local area

The Local Government etc (Scotland) Act 1994 requires the Council to have regard to the interests of the inhabitants of the area to which the Common Good formerly related when administering the Common Good Funds. The Act provides the Council with wide discretion over the use to which Common Good resources may be put. The Angus Council policy is that the use of Common Good Fund resources is to be restricted to that expenditure which will benefit the inhabitants of the specific burgh from which the Common Good was inherited.

(D) Common Good Fund Borrowing

The Local Authority (Capital Finance and Accounting) (Scotland) Regulations 2016 confers the power for local authorities to borrow through the Loans Fund to advance money to a Common Good Fund. Such advances can only be made in respect of expenditure which would have been classified as capital expenditure had the local authority incurred it itself. Such advances from the Loans Fund are secured on the rates and revenues of the Council (excluding that in relation to the Common Good Funds).

(E) Asset transfers between the General Fund / Common Good Fund

The Council has the following existing policy within its annual accounts which notes with regard to such transfers:-

"Following exercises to review legal titles, etc. there are occasions when it is necessary for the transfer of assets between the General Fund and Common Good accounts and vice versa. Each transfer between the Common Good and the General Fund, and vice versa, will be considered on a case by case basis. For current year transfers, accounting adjustments will be made effective on the date of the transfer. Where the actual transfer has occurred in a previous year but has not been identified until a later year, the accounting adjustments will be made on 1 April in the year that the asset transfer is identified. Prior year financial adjustments will only be made if they are considered material in relation to the Common Good assets for the relevant Fund."

(F) Common Good Fund and General Fund Interaction - Assets

There are 4 scenarios where a financial interaction can take place between the Common Good and the Council's General Fund (which also includes the Housing Revenue Account). It is highlighted that Common Good assets are vested with the Council and a legal entity cannot have a contract with itself. Thus, while the term lease is used, these will not take the form of formal lease agreements:-

- 1) Buildings always treated as vested in the Common Good and being used by General Fund operationally.
- 2) General Fund creates a new building on Common Good land or a building created by the General Fund is reassessed as belonging to a Common Good Fund. The building is used by the General Fund operationally.
- 3) General Fund creates a new building on Common Good land or a building is reassessed as belonging to a Common Good Fund. The building is not used by the General Fund operationally.
- 4) Common Good Fund building reassessed as belonging to the General Fund.

The policy approach in each of these scenarios is set out below:-

(i) Buildings always treated as vested in the Common Good and being used by General Fund operationally

- Ground and building will be subject of a commercial lease payment.
- The General Fund is responsible for all costs for the building i.e. any capital and revenue costs applicable to the building occupied. General Fund tenant investment in the asset will not thus result in an increase in the commercial lease payment.
- The Common Good retains the risks and rewards of asset ownership including, for example, asset demobilisation costs e.g. demolition and sale proceeds.
- Sub-lets or licence to occupy provided by the General Fund will be on terms for the General Fund to determine.

(ii) General Fund creates a new building on Common Good land or a building created by the General Fund is reassessed as belonging to a Common Good Fund. The building is used by the General Fund operationally

- Ground only will be subject of a commercial lease payment.
- The General Fund is responsible for all costs relating to the building i.e. any capital and revenue costs applicable to the building occupied.
- The General Fund will maintain tenant financial responsibility for a period of one calendar year (the "transfer period") following a building no longer being used for service provision and this being reported to elected members. This will provide a period during which consideration can be given to the future use of the building. It will be for the General Fund to meet the costs of demobilisation e.g. demolition, should this be the preferred option. The applicable Common Good Fund will receive any sale proceeds (net of any related costs) should this be the preferred option. No rental will be payable during this period.
- Following this one calendar year, all financial responsibility for the asset will revert to the applicable Common Good Fund.
- Sub-lets or licence to occupy provided by the General Fund will be on terms for the General Fund to determine.
- Any Balance Sheet transfer of asset valuation will be undertaken in accordance with the accounting policy noted in Section 2E above.

(iii) General Fund creates a new building on Common Good land or a building created by the General Fund is reassessed as belonging to a Common Good Fund. The building is not used by the General Fund operationally

- No lease payment will be made for the ground or building.
- The General Fund will maintain tenant financial responsibility for a period of one calendar year ("the transfer period") following a building being reassessed as belonging to a Common Good Fund. This period will commence from the point at which the reassessment is reported to elected members.

- This will provide a period during which consideration can be given to the future use of the building. It will be for the General Fund to meet the costs of demobilisation e.g. demolition, should this be the preferred option. The applicable Common Good Fund will receive any sale proceeds (net of any related costs) should this be the preferred option.
- Following this one calendar year, all financial responsibility for the asset will revert to the applicable Common Good Fund.
- Any Balance Sheet transfer of asset valuation will be undertaken in accordance with the accounting policy noted in Section 2E above.

(iv) Common Good Fund building reassessed as belonging to the General Fund

- Any Balance Sheet transfer of asset valuation or responsibility for recurring costs will be undertaken in accordance with the accounting policy noted in Section 2E above.

(G) Third Party Interactions

- Land and buildings will generally be subject of a commercial lease payment on a “full repairing and insuring” basis, subject to review as set out in Section A above.
- There will be exceptions to this general approach where other Council policies and procedures are applicable e.g. reduced rental payments for community groups, voluntary groups, food banks, clothing banks and assets subject of Community Asset Transfer.
- Where Common Good Fund buildings are being used by the General Fund operationally, the term “sub-let” is used to indicate the asset use/payment relationship between the General Fund and the Third Party.

(H) Transfer Period Extension

- The one calendar year transfer period noted in scenarios (ii) and (iii) above can be extended with the approval of Council. This would be appropriate in circumstances where extension would be mutually beneficial to both the Common Good Fund and General Fund e.g. where there is the potential to avoid demolition and the related cost.

3. ADMINISTRATION PROCEDURES

The following administration procedures should be adhered to in the governance of the Common Good Funds:-

(A) Council / Elected Member Involvement

- (i) The administration of the Common Good Funds should remain under democratic control, as agreed by the Council at its meeting on 18 September 2003.
- (ii) All Members must comply with the Councillors' Code of Conduct in respect of declarations of interest when taking part in discussion and taking decisions on matters relating to Common Good Funds. This provision applies equally to any meetings of the local members, consultations with local members (and all Council meetings).
- (iii) Meetings of local Members (those whose constituency falls within the geographical boundary of the Common Good Fund) will be held as necessary to provide the opportunity for consultation of issues relating to each Common Good Fund, consideration of proposed one-off projects, review project commitments and discuss other issues relating to the Funds.
- (iv) Determination of the use of Common Good Fund resources and assets must be undertaken through consideration at an appropriate Council meeting.
- (v) Where decisions relate to Common Good buildings or buildings on Common Good land members of the relevant area covered by the Common Good Fund should be consulted beforehand and their views taken into consideration. This requirement is part of the Council's Standing Orders.

(B) Community Empowerment (Scotland) Act 2015

Where appropriate, the requirement of the Community Empowerment (Scotland) Act 2015 for consultation should be considered particularly in relation to any proposed disposal or change of use.

(C) Revenue Account

(i) Annual Budget

- 1) The annual revenue account budget for the forthcoming financial year for the Common Good Funds will be prepared in accordance with that process undertaken for services of the Council following the budget preparation guidance issued by the "Section 95 Officer" (as defined in Section 95 of the Local Government (Scotland) Act 1973).
- 2) A meeting of Members will be held to provide the opportunity for discussion of issues relating to the Common Good Funds and to allow Members to be formally consulted on the proposed one-off projects.
- 3) The budget for the forthcoming financial year will be approved at an appropriate Council meeting in advance of the commencement of the financial year. This will include indicative budget projections for the following two financial years also e.g. income generation and maintenance costs so that members will have 3 year financial information.

(ii) One-Off Projects

The following procedures should be followed to obtain access to Common Good Fund resources for specific one-off projects:-

- 1) Angus Council services should utilise a pro-forma issued with the annual revenue and capital budget guidance for return to the Common Good Fund Accountant.
- 2) The process outlined in (i) immediately above will also apply to those organisations/Committees responsible for the administration of Common Good assets with which the Council has a close working relationship and who may be anticipated to seek access to the Funds. Services should, therefore, consult with any such organisations during the budget preparation process.
- 3) External parties should refer to the Council's Common Good / Grant Aid guidance, which contains information on the detailed criteria for external parties seeking to access the Funds. All applications should then be submitted using the Council's Common Good / Grant Aid application form. The proposals will be submitted through the Council's grants administrator for consideration by the grants assessors of, inter alia: -
 - The benefit that the project would provide to the local community;
 - That other funding options have been explored;
 - The sum sought from the Common Good vis-à-vis resources available, after allowing for all other on-going expenditure e.g. property maintenance;
 - The sustainability of any ongoing commitments sought.

Local Elected Members require to be consulted on each application approved by the assessors above a de minimis level of £500.

- 4) Projects agreed to proceed will, thereafter, be formally approved with the annual Common Good Fund budgets.
- 5) Subsequent to the setting of the budget, accessing of the Funds for any further one-off projects or matters of urgency e.g. to purchase an item of local interest/importance which has appeared at auction, the following process should be adopted:-
 - Submission through the Council's grants administrator for consideration by the grants assessors;
 - Consultation with the Section 95 Officer, appropriate local Elected Members and the Leader of the Council with a recommended approach; and
 - A report seeking approval to the appropriate Council committee.

(D) Capital Account

Use of the proceeds of asset sales, in accordance with paragraph 2B(iii) above, will require to be the subject of consultation with Local Members and thereafter approval of the appropriate Committee.

(E) Inalienable Common Good

A particular category of common good asset (known as inalienable) is subject to a restriction on disposal (e.g. sale, lease, or demolition), which means court consent may be required. The expense of going to court will be met by the Common Good Fund responsible for the sale/lease or demolition costs unless the Council or relevant Committee agrees otherwise because of the circumstances of the asset in question e.g. if a Community Asset Transfer is proposed.