

REPORT TO: East Lothian Council

MEETING DATE: 17 December 2013

BY: Depute Chief Executive (Resources and People Services)

SUBJECT: Common Good Committees – Scheme of Administration

1 PURPOSE

- 1.1 To replace the Scheme of Administration adopted by East Lothian Council on 28th August 2007 (as amended) with a new Scheme of Administration and to add the Common Good Committees to the Council's Scheme of Administration of the Council's Standing Orders.

2 RECOMMENDATIONS

- 2.1 That the Council approves a new Scheme of Administration (Appendix 1) for Common Good Committees to replace the existing Scheme (Appendix 2) that has been in place since 28th August 2007.
- 2.2 That the Council adds the Common Good Committees to the Scheme of Administration of the Council's Standing Orders.

3 BACKGROUND

- 3.1 The origins of Common Good property can be traced back to the Middle Ages. The Common Good Act 1491 (Appendix 3) is still in force. Common Good Funds are generally made up of property gifted to former burghs by Royal Charter or otherwise and land used by the public in time immemorial. There are various Common Good properties that generate income for the Common Good Funds.
- 3.2 In 1995 on the dissolution of District Councils, East Lothian Council took over the Common Good Properties and Funds falling within its Geographical area. There are currently four Common Good Funds:-
- Musselburgh
 - Haddington

- North Berwick
- Dunbar

3.3 Common Good Committees for each fund were established on 28 August 2007 as Committees of the Council. At that time, due to an oversight, these Committees were not added to the list of Council committees listed in the Scheme of Administration of the Council's Standing Orders.

3.4 The local Councillors for each of these areas administer the expenditure from the individual Funds in accordance with the current Scheme of Administration. The income from the Common Good is generally first of all used to maintain Common Good Properties but if there is sufficient income available it is added to the Common Good Fund. A Common Good Fund can be used to provide financial support for projects or events for the benefit of those people living in the former Burgh. Applications can be made to the Common Good Funds by members of the public, local organisations, schools etc. that belonging to the area covered by the particular Common Good Fund.

3.4 A proposed new Scheme of Administration has been prepared following consultation with officers and with appropriate Councillors.

4 POLICY IMPLICATIONS

4.1 None

5 EQUALITIES IMPACT ASSESSMENT

5.1 This Report is not applicable to the wellbeing of equalities groups and an Equalities Impact Assessment is not required.

6 RESOURCE IMPLICATIONS

6.1 Financial – as described in the Report

6.2 Personnel - None

6.3 Other - None

7 BACKGROUND PAPERS

7.1 Council Report 27 August 2007 – “Common Good Funds”

7.2 Members Library Report 2 July 2012 – “Common Good Committees”

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DATE	27 November 2013

Common Good Funds

Scheme of Administration

1. Background

- 1.1 Common Good Funds are the assets and income of some former Burghs of East Lothian. They represent a substantial portfolio of land, property and investments and by law continue to exist for the Common Good of the inhabitants of the former Burghs to which they relate.
- 1.2 East Lothian Council has a wide discretion over the use of its Common Good Funds so long as they are applied for the benefit of the community using reasonable judgement and having regard to the interests of the inhabitants of the former burgh.

2. Administrative Arrangements

- 2.1. Council will approve an annual budget for each of the Common Good Funds that will include provision for the maintenance of assets and any committed items of expenditure.
- 2.2. The Common Good Committee for each area will administer its own Common Good Fund with support from officers.
- 2.3. Each Common Good Committee will consist of all the councillors for those areas, namely:-
 - Musselburgh – all 6 Musselburgh Councillors
 - Haddington – all 3 Haddington Councillors
 - North Berwick – all 3 North Berwick Councillors
 - Dunbar – all 3 Dunbar Councillors
- 2.4. For the Musselburgh Common Good Committee the quorum is 4. For the other three Committees, the quorum is 2.
- 2.5. Each Common Good Committee will be timetabled to meet quarterly although it may meet more or less frequently as business dictates. The chair will be appointed by a vote at the start of the first meeting following the local government elections and will hold that post until the next local government election.
- 2.6. Meetings of the Common Good Committees will generally be held in a venue located within the area to which the Common Good Fund relates but may be held elsewhere
- 2.7. Each Common Good Committee has authority to:-

- Award a grant of up to £10,000
- Approve revenues expenditure of up to £10,000 for the maintenance of the assets of the fund provided that can be met within the approved budget

2.8. Each application for a grant will be considered on its own merits. The Committee must consider whether or not it is a reasonable judgement for them to consider making a disbursement from the Common Good Fund for the benefit of the Community. This can, for example include expenditure on:-

- The expense of civic ceremonies and of the provision of suitable hospitality on appropriate occasions and for appropriate persons and guests
- Applications from individuals and groups where the grant of the application would benefit the community as a whole
- Firework displays where appropriate

This list is representative only and does not preclude other awards that are thought appropriate.

2.9. Decisions of the Committees will be taken by simple majority of those present following a show of hands. In the event of a tie the Chair will have a casting vote.

2.10. The Common Good Committees can make recommendations to the Head of Council Resources in relation to expenditure over £10,000. The Head of Council Resources on receipt of the recommendation will prepare a report for Council. Council will make the decision on any matter involving expenditure of more than £10,000.

2.11. No officer of the Council has delegated power to commit Common Good Funds.

2.12. A six monthly report detailing all discretionary grant awards for each fund will be prepared by the Head of Council Resources and will be lodged in the Members' Library and made available electronically to all members of the appropriate Common Good Committee.

REPORT TO: East Lothian Council

MEETING DATE: 28 August 2007

BY: Acting Chief Executive and Head of Corporate Finance

SUBJECT: Common Good Funds

1 PURPOSE

- 1.1 To consider the adoption of a Scheme of Administration and 2007/08 budgets for the Common Good funds administered by the Council.

2 RECOMMENDATIONS

- 2.1 That the Council approves the Scheme of Administration (Appendix 1) for the Common Good funds administered by ELC and the 2007/8 budgets for the 4 Common Good funds (Appendices 2, 3, 4 and 5)

3 BACKGROUND

- 3.1 The historical origin of Common Good property in Scotland can be traced back to the Middle Ages and the systems of local government administration which evolved from that time, e.g. Royal Burghs, Burghs of Regality, Burghs of Barony, etc. However for the purpose of this report the historical origin is of limited relevance.
- 3.2 The modern statutory basis for Local Authorities administering Common Good funds is contained in Section 15(4) of the Local Government etc. (Scotland) Act 1994 ("the 1994 Act"), and in relative Statutory Instruments.
- 3.3 Section 15(4)(a) of the 1994 Act provides that in administering property forming part of the Common Good, any authority to which such property is transferred shall:-
- (a) except in the case of the Councils for Aberdeen, Dundee, Edinburgh, and Glasgow, have regard to the interests of the inhabitants of the area to which the common good related prior to 16 May 1975.

16 May 1975 was the date of transfer to the then new Regional and District Councils under the Local Government (Scotland) Act 1973 from

the former County and Town Councils. Before Section 15(4) of the 1994 Act came into force similar provisions were contained within Section 222(2) of the Local Government (Scotland) Act 1973.

- 3.4 Article 12 of the Local Authorities (Property Transfer) (Scotland) Order 1995 provided that on 1 April 1996 any property which immediately before that day was held by an authority as part of the common good shall transfer to and vest in the authority within whose area was situated the burgh of whose common good that property (or property which has been replaced by that property) formed part on 15 May 1975. "Property" under the 1995 Order was defined to include both heritable (e.g. land and buildings) and moveable, (e.g. funds). Article 8 of the Local Government (Transitional Financial Provisions) (Scotland) (Order) 1996, provided that any credit balance on the accounts of the common good of a district council immediately before the transfer date shall be transferred on that date to the council within the area of which was situated the burgh of whose common good those accounts formed part on 15 May 1975.
- 3.5 Given the above historical and statutory background, East Lothian Council is responsible for administering Common Good funds for the following four former burghs: Dunbar, Haddington, Musselburgh and North Berwick. Accounts are maintained for each of the individual funds to ensure that Common Good funds are kept separate from each other and from Council funds.
- 3.6 There are no funds for the Prestonpans and Tranent areas. We have no historical records on funds for these areas and we assume that either these did not exist or they were fully expended by predecessor Councils.
- 3.7 Subject to the terms of Section 56 of the Local Government (Scotland) Act 1973, East Lothian Council is responsible for designing its own governance arrangements for Common Good funds. Section 56 of the 1973 Act provides that a local authority may arrange for the discharge of any of their functions by a committee, a sub-committee, or by an officer of the authority. It has been custom and practice for local Councillors to make decisions regarding the Common Good funds for their areas. However, these arrangements have not been formalised by East Lothian Council and there is a need to adopt a Scheme of Administration to help demonstrate that the funds are administered in an appropriate and transparent manner. The proposed Scheme of Administration (Appendix 1) formalises the procedures regarding the administration of the Common Good funds in East Lothian Council.
- 3.8 In order to comply with the governance arrangements required by Section 56 of the 1973 Act, it would be appropriate, should the Council wish to devolve decision making on expenditure of common good funds to the local level, for Common Good Committees to be formed for each of the four former burghs of Dunbar, Haddington, Musselburgh, and North Berwick. Such Common Good Committees are shown in section 2.7 of the Appendix 1, Scheme of Administration.

- 3.9 The proposed Scheme of Administration includes a requirement for the Council to approve an annual budget for each of the Common Good funds. The proposed budgets for 2007/8 are shown in appendices 2 to 5 of this report.
- 3.10 Each of the Common Good funds owns assets that generate rental income e.g. the Brunton Hall in Musselburgh and the Town House in Haddington. The budgets reflect that income is used in the first instance to maintain the assets with any surplus funds being used to benefit the inhabitants of the area covered by the fund. Any unused funds are carried forward to the following year.
- 3.11 The budgets are based on historical spending patterns and known commitments for 2007/08. A review of Common Good rents is ongoing which aims to ensure that an appropriate landlord-tenant split is maintained and that rental valuations are up to date. The budgeted income for 2007/8 reflects some one-off adjustments that have resulted so far from this review and I expect that further adjustments will follow.
- 3.12 For each fund the budget shows that there are funds available for use in 2007/08 and these can be used to finance projects for the common good in each of the 4 areas.

4 POLICY IMPLICATIONS

- 4.1 None

5 RESOURCE IMPLICATIONS

- 5.1 Financial - None
- 5.2 Personnel - None
- 5.3 Other – None

6 BACKGROUND PAPERS

- 6.1 None

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DATE	17 August 2007

Common Good Funds

Scheme of Administration

1. Legal Background

- 1.1. East Lothian Council is responsible for administering Common Good Funds for the following four areas: Dunbar, Haddington, Musselburgh and North Berwick. These funds have to be separately administered by the Councils for the “common good” of the inhabitants of each area.
- 1.2. The statutory provisions regulating the specific activities of the fund are sparse, but are as contained in the Local Government etc. (Scotland) Act 1994, section 15(4), a copy of which is attached.

Subject to compliance with these provisions and Section 56 of the Local Government (Scotland) Act 1973, East Lothian Council may design its own governance arrangements.

2. Administrative Arrangements

- 2.1 The Council must approve an annual budget for each of the Common Good funds before the start of the financial year. The budget must include provision for the maintenance of assets and for any committed items of expenditure e.g. property costs, administrative expenses and payments that have historically been paid by the Common Good funds. The Council cannot approve a deficit annual budget i.e. where expenditure would exceed income and the accumulated fund brought forward in any one year.
- 2.2 A committee of Councillors representing the area covered by the fund will administer each of the Common Good funds. Details of the membership of the Common Good committees are attached at the end of this document. Membership is based on the wards covered by each fund. At least 50% of the members must be present to constitute a quorum.
- 2.3 Each Common Good committee must meet at least once a year. A recorded minute of the meeting must be produced. The committee can hold other ad hoc meetings at its discretion.
- 2.4 Each Common Good committee will have authority to:
 - 2.4.1 Award a grant of up to £10,000 which supports an event, project or facility which is openly available to the inhabitants of the area to which the common good related (see Section 15(4)(a) of the 1994 Act, or supports a club or group which provides a benefit to the community of that area as a whole. The decision to award a grant must be

unanimous. If a unanimous decision cannot be reached then the application should be referred to the Council.

- 2.4.2 Approve revenue expenditure of up to £10,000 for the maintenance of the assets of the fund provided that it can be met within the approved budget.
- 2.4.3 Consult with other parties as appropriate, including the Community Councils
- 2.5 All decisions regarding expenditure over £10,000 will be considered as recommendations only and will be reported to the Council for a decision by the Head of Corporate Finance at the request of the relevant Common Good committee.
- 2.6 No officer of the Council has delegated powers to commit Common Good funds.
- 2.7 A quarterly report detailing all the discretionary grant awards for each of the funds will be prepared by the Head of Corporate Finance and lodged in the Members Library Service.

Common Good Committees

Dunbar

Councillor	Ward
Jacquie Bell	Dunbar & East Linton
Norman Hampshire	Dunbar & East Linton
Paul McLennan	Dunbar & East Linton

Haddington

Councillor	Ward
Ludovic Broun-Lindsay	Haddington & Lammermuir
Sheena Richardson	Haddington & Lammermuir
Tom Trotter	Haddington & Lammermuir

Musselburgh

Councillor	Ward
John McNeil	Musselburgh West
Barry Turner	Musselburgh West
John Williamson	Musselburgh West
John Caldwell	Musselburgh East & Carberry
Andy Forrest	Musselburgh East & Carberry
Roger Knox	Musselburgh East & Carberry

North Berwick

Councillor	Ward
David Berry	North Berwick Coastal
Stuart MacKinnon	North Berwick Coastal
Neil Rankin	North Berwick Coastal

Local Government etc. (Scotland) Act 1994

1994 c. 39 - *continued*

Part I - Local Government Reorganisation - *continued*

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Chapter 3

Property

Transfer of
property.

15 (1)
(2)
(3)

(4) The power to transfer property conferred by this section includes power to transfer property which is held by an existing local authority as part of the common good, but such property may not be transferred to a residuary body and, in administering such property, any authority to which it is transferred shall—

- (a) except in the case of the councils for Aberdeen, Dundee, Edinburgh and Glasgow, have regard to the interests of the inhabitants of the area to which the common good related prior to 16th May 1975; and
- (b) in the case of the councils for Aberdeen, Dundee, Edinburgh and Glasgow, have regard to the interests of all the inhabitants of their areas.

Dunbar Common Good

Income & Expenditure Budget 2007/8

Expenditure

	Actual 2006/7	Budget 2007/8
Local Govt Workers Pay	1,549	1,600
Premises Costs - Repairs & Maintenance	7,095	7,100
Premises Costs - Rates	2,847	3,000
Supplies & Services - Services	320	320
Supplies & Services -Grants	8,400	2,000
Loan Charges - Principal repayments	0	590
Loan Charges - Interest	0	1,540
Total Expenditure	<u>20,211</u>	<u>16,150</u>

Income

Sales of Goods & Services - Rents	-23,825	-31,600
Interest & Investment Income - Interest Receipts	-990	-1,000
Other contributions - other organisations	0	-450
Total Income	<u>-24,815</u>	<u>-33,050</u>
Surplus for the Year	-4,604	
Available funds or Estimated Surplus for Year		-16,900
Common Good Fund opening balance	-25,937	-30,541
Accumulated fund	<u>-30,541</u>	<u>-47,441</u>

Haddington Common Good

Income & Expenditure Budget 2007/8

Expenditure

	Actual 2006/7	Budget 2007/8
Premises Costs - Repairs & Maintenance	12,521	12,500
Premises Costs - Operating Lease	11,044	11,040
Supplies & Services - Services	330	330
Loan Charges - Principal repayments	0	550
Loan Charges - Interest	0	1,430
Total Expenditure	<u>23,895</u>	<u>25,850</u>

Income

Sales of Goods & Services - Rents	-33,000	-33,000
Interest & Investment Income - Interest Receipts	<u>-6,730</u>	<u>-6,730</u>
Total Income	<u>-39,730</u>	<u>-39,730</u>

Surplus for the Year -15,835

Available funds or Estimated Surplus for Year -13,880

Common Good Fund opening balance -317,593 -333,428

Accumulated fund -333,428 -347,308

Musselburgh Common Good

Income & Expenditure Budget 2007/8

Expenditure

	Actual 2006/7	Budget 2007/8
Premises Costs - Repairs & Maintenance	14,735	15,000
Premises Costs - Water Services	887	1,000
Premises Costs - Rates	1,824	1,800
Supplies & Services -Materials	14,934	10,000
Supplies & Services - Services	48,848	30,000
Supplies & Services -Grants	31,237	50,000
Loan Charges - Principal repayments	0	1,510
Loan Charges - Interest	0	3,930
Total Expenditure	<u>112,465</u>	<u>113,240</u>

Income

Other contributions - other organisations	-102,413	-126,580
Sales of Goods & Services - Services	-238	0
Sales of Goods & Services - Rents	-299,511	-265,000
Interest & Investment Income - Interest Receipts	<u>-62,500</u>	<u>-62,500</u>
Total Income	<u>-464,662</u>	<u>-454,080</u>
Surplus for the Year	-352,197	
Available funds or Estimated Surplus for Year		-340,840
Common good Fund opening balance	-1,390,683	-1,742,880
Accumulated fund	<u>-1,742,880</u>	<u>-2,083,720</u>

North Berwick Common Good

Income & Expenditure Budget 2007/8

Expenditure

	Actual 2006/7	Budget 2007/8
Premises Costs - Repairs & Maintenance	2,119	2,100
Premises Costs - Rates	1,770	1,770
Supplies & Services - Services	1,160	320
Supplies & Services -Grants	15,734	0
Total Expenditure	<u>20,783</u>	<u>4,190</u>

Income

Sales of Goods & Services - Rents	-19,419	-19,400
Interest & Investment Income - Interest Receipts	-2,790	-2,790
Total Income	<u>-22,209</u>	<u>-22,190</u>

Surplus for the Year -1,426

Available funds or Estimated Surplus for Year -18,000

Common Good Fund opening balance	-70,332	-71,758
Accumulated fund	<u>-71,758</u>	<u>-89,758</u>

Common Good Act 1491
1491 C. 19

Of the commoun gud of all burrowis.

1 Short title “The Common Good Act 1491” given by Statute Law Revision (Scotland) Act 1964 (c. 80), Sch. 2

Scotland

Law In Force

1. Item it is statut and ordinit that the commoune gud of all our souerane lordis burrowis within the realme be obseruit and kept to the commoune gude of the toune and to be spendit in commoune and necessare thingis of the burght be the avise of the consale of the toune for the tyme and dekkynniss of craftis qhare thai ar [...]1

Notes

1 Words repealed by Statute Law Revision (Scotland) Act 1906 (c. 38)

Commencement

s. 1: May 18, 1491 being the day that the act was passed in the parliament April 28, 1491, Edinburgh

Extent

s. 1: Scotland