

REPORT TO: East Lothian Council

MEETING DATE: 27 August 2019

BY: Depute Chief Executive (People and Resources)

SUBJECT: Review of the Governance of Common Good

1 PURPOSE

- 1.1 To report on progress of the Review of the Governance of Common Good.

2 RECOMMENDATIONS

- 2.1 That Council notes the report and that a further report will be brought to Council with recommendations for change as developed by the cross-party working group.

3 BACKGROUND

- 3.1 A review of the Governance of the Common Good was initially undertaken in parallel with the current Review of Trusts.
- 3.2 A Project Brief was developed in June 2018 and was given approval on 25 July. Kirstie MacNeill, the then Service Manager – Licensing Administration and Democratic Services was appointed as Project Manager and an original project team was established consisting of:

Liz Denovan, Service Manager – Corporate Finance

Carlo Grilli, Service Manager – Legal and Procurement

Caitlin McCorry, Service Manager – Community and Area Partnerships

Sarah Fortune, Service Manager – Business Finance

Tracey Brown, Finance Business Partner

Kim Brand, Corporate Development Accountant

Janet Placido, Team Manager – Estates

The Project Team was supported by Caroline Rodgers, Transformation Programme Manager.

There were 6 Project objectives in the Brief relevant to the Governance of the Common Good:

- Compile a definitive list of Common Good Assets
- Create a mechanism so that such a list is regularly reviewed
- Review the governance arrangements in place for the Common Good and make recommendations for improvement
- Propose changes to the management of the Common Good
- Ensure that Elected Members and relevant staff are aware of the restrictions that apply to the management and use of the Common Good
- Propose any refresh of Standing Orders that might be required by any project recommendations

3.3 Common Good consists of Assets in the form of buildings and land that generate income that is invested and known as the Common Good Funds. The Common Good is owned by the Council and requires to be administered by the Council subject to specific restrictions relating to the interests of the inhabitants of the Burghs that formerly owned them. There are very specific restrictions in relation to the disposal by sale or lease of any Common Good property.

3.4 The Common Good Act of 1491 determined that the revenues from Burgh property and income from various taxes and levies was to be used for the Common Good of the town – it was effectively the town’s general fund. The funds therefore comprise not only buildings and land but perhaps also some other items such as paintings, artefacts and historical items. Across Scotland there has been, and continues to be, considerable debate over what is and what is not part of the Common Good.

3.5 On 25 June 2019 Council decided to provide budget to enable the employment of a surveyor to establish the repairs and maintenance required to Common Good buildings to enable provision for that to be incorporated into future Common Good budgets. It also provided budget to enable Legal Services to undertake a review of title deeds held by the Council so that a definitive list of Common Good could be prepared. Council also decided that a cross-party working group should be formed to look at the governance of the Common Good and that an update report should be brought to this meeting of Council.

3.6 The cross-party working group consisting of Councillors Forrest, Henderson, Williamson and Goodfellow, the Chief Executive, the Head of Council Resources, the Chief Operating Officer – Finance and the Service Manager – People and Resources met on 23 July and 20 August.

- 3.7 The meeting of 23 July agreed that clarity was required from Legal and Procurement as to what defines a property or land as being Common Good. There was agreement that it was important to understand the impact of the required maintenance and repair of the Common Good on budgets and whether these might impact on the ability to award grants. There was also a general feeling that the criteria for valid grant applications was not clear and may not be being applied consistently and it was decided that these criteria could be more specific and perhaps tightened further. Progress reports were sought from Legal and Procurement and Engineering Services along with further information from Property Services and Finance
- 3.8 A verbal report will be given to Council on the outcome of the meeting to be held on 20 August.

4 POLICY IMPLICATIONS

None

5 INTEGRATED IMPACT ASSESSMENT

- 5.1 The subject of this report does not affect the wellbeing of the community or have a significant impact on equality, the environment or economy.

6 RESOURCE IMPLICATIONS

- 6.1 Financial – none
- 6.2 Personnel – none
- 6.3 Other – none

7 BACKGROUND PAPERS

- 7.1 Report to Council, 25 June 2019 – Review of Governance of Common Good

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