

REPORT TO BUSINESS SERVICES COMMITTEE – 20th April 2017

COMMON GOOD FUNDS

1. Recommendations -

It is recommended that the Business Services Committee consider the Suite of Documents relating to Common Good and:-

- 1.1 approve the terms of the proposed Policy for the handling of financial applications for Common Good Funds as outlined in Appendix 1, Part 1 to this report;**
- 1.2 Note the terms of the draft Operational Procedures for Officers relating to the processing of applications for Common Good Funds as outlined in Appendix 1, Part 2 to this Report;**
- 1.3 Recommend to Full Council that the Scheme of Governance is amended to incorporate the following officer powers set out on Page 7 of the Policy attached as Appendix 1, Part 1 to this Report; and**
- 1.4 Authorise the Head of Legal and Governance to make minor changes to the Policy without the need to revert back to the Business Services Committee for approval.**

2. Background

- 2.1** Aberdeenshire Council administers 14 Common Good Funds with a value totalling £1,100,950.58 at December 2016. These comprise assets generated through the historical burghs of Aberdeenshire and range from very small sums (£168 for Ballater) to more considerable sums (£452,000 for Peterhead).
- 2.2** The Scheme of Governance provides that the administration of Common Good funds is delegated to Area Committees. Each has put in place a practice for the management of applications in their area, usually involving the relevant Ward members specifically or exclusively and taking advice from the relevant Area Manager, with support from Finance and Legal and Governance on competency. Approaches have differed over time resulting in local variations in what is being applied for and granted.
- 2.3** The written procedures do not currently explicitly include assessment by officers on competency of applications. It is an officer's duty to ensure that applications are legally competent and that a decision on any matter could not

be deemed to be ultra vires or illegal and as such, is a vitally important part of assessment. Officers can only bring competent applications before a Committee for consideration.

- 2.4 Over the years. Different practices have developed across Aberdeenshire in determining common good applications. The previous and current Scheme of Governance do recognise that decision-making does rest with Area Committees. Not all of these practices currently meet the requirement of local government legislation to have decisions taken by an officer, committee or sub-committee. Any decision taken only by ward councillors, for example, does not meet these requirements and could be at risk of challenge. The sums are relatively small and so, correspondingly, is the risk. As part of the review of Common Good Policy, Officers are seeking to clarify any delegations, be it to an Area Committee, A sub-Committee of an Area Committee or to an officer following consultation with ward councillors, so that the decision-making process meets the requirements of local government legislation, removing the potential for challenge.
- 2.5 This report proposes a Policy which will address legal consistency whilst still acknowledging the potential for local variation in the decision making process allocating funds to suit local circumstances, as permitted in terms of the Scheme of Governance.
 - 2.5.1 The Policy has been drafted taking into account current local variation to date, mainly in terms of Festive Light and twinning provision and suggests that this may be extended across Aberdeenshire, and also clarifies the legal position.
 - 2.5.2 The intent of the Policy is to make clear how decisions will be made, placing Ward Members at the heart of decision making, with Area Managers being given delegated authority to determine competency of applications following consultation with colleagues in both finance and legal and governance, and also to approve disbursements where the majority of ward members agree, following consultation, that an award should be made and the amount thereof (failing which the application is referred to Area Committee), encouraging greater transparency and probity in terms of the governance of the Fund.
 - 2.5.3 The Proposed Policy is attached as Appendix 1, Part 1 to this Report.
 - 2.5.4 The Policy has been the subject of Area Committee consultation and their responses are outlined at Appendix 2 of this Report.
- 2.6 A copy of the Proposed Suite of Documents relating to Common Good is attached as Appendix 1, Part 2 to this report for information.
 - 2.6.1 The purpose of the Suite of Documents is to produce an operational management tool to ensure that applications are lodged and processed in a consistent manner across Aberdeenshire. The revised operational procedure for the management of common good applications by officers has been included in this report so that Members can see how applications will be

processed in terms of the revised Policy. Members should, however, note that the Policy does not look at the wider issue of policy for the management of buildings and assets. It is likely that the Council may have to return to this issue in terms of the Community Empowerment Act.

- 2.7 Additional powers for Area Managers to make decisions following consultation with Local Ward Members are also required as only competent applications can be brought by officers to Committee, as outlined at Section 2.3 of this Report. Should the terms of the proposed policy be agreed, Full Council approval is necessary to amend the Scheme of Governance to provide the officer powers set out on page 7 of the Proposed Policy attached as Appendix 1, Part 1 to this report.
- 2.8 The Area Committees have been asked to consider the proposed Policy and make comments to the Business Services Committee. Comments made by the Area Committees to date are attached as Appendix 2 to this Report. Verbal updates on comments made by the Buchan and Garioch Area Committees will be provided to the Business Services Committee on the day.
- 2.9 The Head of Finance and Monitoring Officer within Business Services have been consulted in the preparation of this report and their comments are incorporated within the report and are satisfied that the report complies with the Scheme of Governance and relevant legislation.

3 Scheme of Governance

- 3.1 The Committee is able to consider this matter in terms of Section C2.6 of Part 2A of the Scheme of Governance which gives the Business Services Committee the authority to approve policies for the management of Common Good Funds.

4 Equalities, Staffing and Financial Implications

- 4.1 An equality impact assessment is not required because the review of the Common Good Policy and Procedures does not have a differential impact on any of the protected characteristics.
- 4.2 There are no staffing and financial implications arising from the review of the Common Good Policy and Procedures

Ritchie Johnson

Director of Business Services

Report prepared by: Fiona M. Stewart, Senior Solicitor (Governance)

Date: 23rd March 2017



**Suite of Documents Relating to
Common Good in Aberdeenshire**

**Section 1: Aberdeenshire Council's Common Good
Fund Policy**

**Section 2: Operational Procedures for Officers
Processing Common Good Fund
Applications**

**Section 3: List of Funds and Estimated Annual
Income available from those funds (if this
is possible)**

APPENDIX 1, PART 1



Section 1

Aberdeenshire Council

Common Good Fund Policy

What are Common Good Funds?

Common Good Funds are generally made up of property (including land, buildings, investments and movable items) that belonged to the previous burghs of Scotland.

The responsibility for administering these funds now rests with the local authorities throughout Scotland. Aberdeenshire Council is responsible for administering 17 Common Good Funds, the details of which are listed below:

AREA COMMITTEE	NAME OF COMMON GOOD FUND AND AREA COVERED	APPLICABLE COUNCIL WARD
BANFF AND BUCHAN	Aberchirder	1
	Banff	1
	Fraserburgh	3
	Macduff	2
	Portsoy	1
	Rosehearty	2
BUCHAN	Peterhead	5/6
FORMARTINE	Oldmeldrum	8
	Turriff	7
GARIOCH	Inverurie	11
	Kintore	10
KINCARDINE AND MEARNS	Inverbervie	19
	Laurencekirk	19
	Stonehaven	18
MARR	Ballater	15
	Banchory	16
	Huntly	14

These Common Good Funds, although, held by the Council are legally distinct from the Council's other funds, and any money held within these Funds, including the income from any assets which make up these Funds, are to be used solely for the overall benefit of the people who reside in the area covered by the applicable Fund.

The Council, however, does retain discretion in terms of how these funds and their income is used and, for example, may decide to acquire land for public use (e.g. formation of a public park) or maintain a publically owned building (e.g. maintaining the local town hall) using the funds where the action taken is deemed to be for the overall benefit of the local community.

Further to this the Council also considers applications for funding in respect of each of the aforementioned Common Good Funds, from individuals or organisations who live or operate in the area covered by the specific Fund and who provide services which are aimed at benefiting their community.

The 17 Funds listed in the table above vary in size and as a result what can be achieved in each area using these funds will differ as will the opportunity for individuals or organisations to secure funding.

The Council has therefore developed the following policy and procedures when it comes to administering these Funds.

What can Common Good Funds be used for?

The actual use of Common Good funds has been determined by the Courts over the years, and local authorities have a very wide discretion as to how the funds are distributed, provided that local authorities honestly exercise their discretion and that the use of common good funds is not contrary to policy¹ or for unlawful purposes².

The Courts have decided that Common Good monies may be used for the following:-

a) **“Upholding the dignity of the Burgh”**

This involves matters relating to civic ceremonies and related hospitality for appropriate officials and guests, such as town twinning events,

b) **The prudent management, upkeep and improvement of common good fund property, whether such property is used by the general public or held for investment purposes**

This relates to the management and maintenance of Common Good land and buildings for public use

c) **Safeguarding the corporate rights of the community and defending its interests**

This could be used to develop or promote a coat of arms or civic identity.

d) **Granting donations to public institutions or charities**

Such donations must be granted to benefit the interests of the general public of the relevant area.

e) **Any other purpose which in the bona fide and reasonable judgement of the council, is for the good of the community as**

¹ Test set out in *Graham v Glasgow Corporation* (1936)(SLT) 145

² *Kemp v Glasgow Corporation* (1920)SC(HL) 73

a whole, as opposed for the interest and benefit of any particular group or individual.

The Courts have stated that they will “*only interfere with Local Authorities discretion if its acting's are shown to be (1) ultra vires³, (2) illegal, (3) contrary to public policy, (4) contrary to the general interests and welfare of the community as a whole, (5) not within their proper discretion (6) not an honest exercise of their discretion (7) vitiated⁴ by abuse or malversation⁵”.*

Aberdeenshire Council has determined that Festive Light Displays and Town Twinning fall into this category.

Festive Light Displays

The following eligibility criteria apply to applications for Festive Light Displays:-

1. Groups can apply for new lights only. Repair, maintenance, installation and storage costs will not be supported,
2. Groups can source 50% of the total cost of the purchase of new lights from this fund to a maximum of £1,500,
3. Groups can only access this fund once every three years,
4. Support will only be given for displays which use energy efficient technology and focus on town centres or the main village thoroughfares

Town Twinning

Applications for funding may be acceptable for contributions towards the establishment of new Town Twinning Schemes where evidence is shown that there will be benefits to the whole community. This may include travel expenses for an initial visit only.

Funds distributed from the Common Good will be recovered from the applicant if not used as applied for.

³ ultra vires – beyond the powers

⁴ vitiated - invalidate

⁵ malversation – corruption

What can't Common Good Funds be used for?

Common Good Funds **cannot** be used for –

- Activities promoting religious or political beliefs
- Travel costs for exchange visits or trips unless it can clearly be demonstrated that there is a benefit to the wider community.
- Administrative costs for community councils over and above their annual grant from Aberdeenshire Council
- Applications to cover an organisation's running costs or capital investments
- Applications for projects which another organisation has a legal right or duty to provide
- Projects that do not benefit the wider community
- Applications from individuals or organisations that do not live or operate within the area covered by the particular Common Good Fund
- Organisations seeking to make a profit using Common Good Funding where those profits are not reinvested back into the project.

Who makes decisions about distributing Aberdeenshire's Common Good Funds?

Aberdeenshire Council's Scheme of Governance sets out the powers available to Committees and Officers in relation to Common Good Funds within Aberdeenshire.

The power to approve policy

Section C of Part 2A– List of Committee Powers Section 2.6 gives power to the **Business Services Committee** to approve policies for the management and investment of any funds including the common good.

The power to administer Common Good Funds

Section B of Part 2A – List of Committee Powers Section 2.1 gives **Area Committees** authority to administer Common Good Funds and trusts controlled by the Council for the benefit of their Area.

All Area Committees have been consulted on this policy and have agreed to administer the Common Good Funds for their Area in accordance with this Policy.

Practicalities

Part 2A – List of Committee Powers – General Provisions Section 7 permits an Area Committee to delegate to an Officer any of the functions which have been delegated to the Committee.

Section 8 allows a Committee to delegate to Sub-Committees.

Part 2B – List of Officer Powers – Section D Business Services

Section 1.5 gives Area Managers authorisation to process applications in terms of the Council's Common Good Fund Procedures, as follows:

- 1.5 process applications for financial assistance requests from the Council's common good funds in terms of the Council's common good procedures; and to
 - a. Determine the competency of applications in terms of the Council's Common Good Policy, following consultation with the Head of Finance and Head of Legal and Governance; and
 - b. Approve awards of financial assistance from common good funds, following consultation with the relevant Ward Members, where there is majority agreement:
 - (i) that an awards can be made; and
 - (ii) as to the amount of money that is to be awarded;
- failing which the matter is to be referred to the relevant Area Committee for determination.

In terms of the Financial Regulations, Section 4.10.1 states that the Council shall make the necessary arrangements for the proper administration of each Trust Fund in accordance with the conditions laid down by the Trust or other deed.

Capital Expenditure

Local Authorities have a statutory duty to keep the scale of their capital investment under review.

The Finance Service must be consulted on the implications when appraising any request which has or may have a capital implication.

Payments from Revenue

Payments made from any particular Common Good Fund in any one year should not exceed the level of income it is anticipated will be generated in that year. This is a prudent view which seeks to ensure the ongoing viability of the Fund.

There are, however, times when Members may wish to make a payment of a level greater than the income generated in that year. In order to allow for this any unspent revenue income from previous years can also be considered available to spend.

APPENDIX 1, PART 2



Section 2

Aberdeenshire Council

Common Good Fund Procedures



COMMON GOOD FUND PROCEDURES FOR OFFICERS – Updated XXX 2017

Operational Procedures for Common Good Fund Disbursements in Aberdeenshire

Member's Request for financial information

Finance will issue a brief financial statement for each Fund on an annual basis to local Ward Members and the relevant Area Manager. Members may also request an update on this on an annual basis. This statement will be an indication only and Finance should be consulted on any queries regarding the level of funding requested or past funding history. This information should be made available publicly online annually.

References to Appendices refer to styles provided for consistency of approach.

The Application Process

- a) All requests for applications for Common Good monies will be directed to the relevant Area Manager's office. Once received an applicant will be e-mailed or posted an application form (Appendix A), together with a copy of the current Common Good Policy. The application form will request any additional documentation which may be required such as accounts, quotes for work etc.*
- b) Completed application forms to be lodged either by email to the relevant Area Manager or by post to the relevant Area Manager's office.*

Consideration of Competency of Application and Whether Funds are available

- c) Upon receipt of a completed application for Common Good Fund monies, the relevant Area Manager will acknowledge receipt of the application to the applicant (Appendix B) and forward the application to Finance and Legal and Governance. (Appendix C)*

Finance will provide the current balance on the fund, and information regarding past funding.

Legal and Governance will provide an opinion as to whether or not the application meets the Common Good criteria for funding and will make a recommendation as to the competency of the application.

- d) *The relevant Area Manager will then determine whether the application is competent and can proceed to the next stage of processing, or that the application is not competent and the reasons why. (Appendix D).*
- e) *Where the application is deemed incompetent, the Area Manager will e-mail/write to the applicant advising that the application was unsuccessful, and advising of the reasons why. (Appendix E).*
- f) *Where the application is deemed to be competent, the Area Manager will e-mail/write to the applicant advising that the application is deemed to be competent and advising of the reasons why, and that the application will proceed further for determination. (Appendix F)*

Determination of Competent Applications.

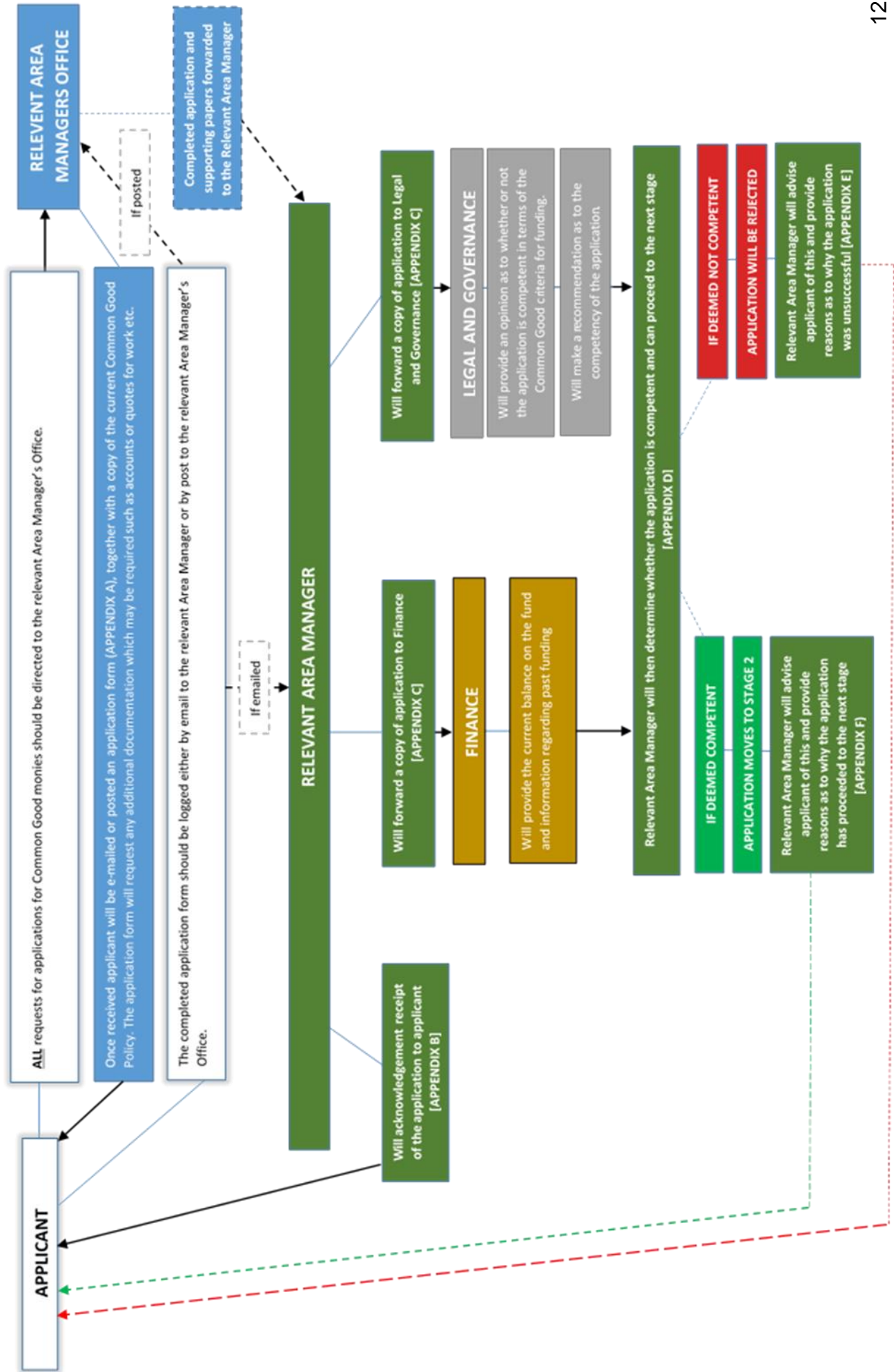
- g) *The relevant Area Manager will then consult local Ward Members in relation to the application. Ward Members will be asked to consider the request and advise as to whether they agree with the request and what the level of payment should be. (Appendix G). Where a majority agreement cannot be reached (following negotiations, if necessary), a report should be prepared by the Area Manager to the relevant Area Committee.*
- h) *Where agreement is reached regarding a payment, the relevant Area Manager shall pass the completed form, detailing the process by which the application has been considered (Appendix H) and also a completed AP06 form with all the supporting documents to Finance.*

The Area Manager will then e-mail/write to the applicant to advise that their application has been successful, advising of the amount that will be paid from the Common Good Fund and that payment will be issued following receipt of the relevant paperwork e.g. a paid invoice/receipt for work done (Appendix I). The letter will include a request for completion of the End of Project Monitoring Form (Appendix J)

Payment of Common Good Monies

- i) *Upon receipt of the completed form and supporting documentation (Appendix D & H), Finance will request that a payment for the agreed disbursement amount be raised by the Creditors Section. Creditors will send the payment directly to the beneficiary.*

PROCESS FLOW CHART: STAGE 1 – DETERMINING THE COMPETENCY OF APPLICATIONS

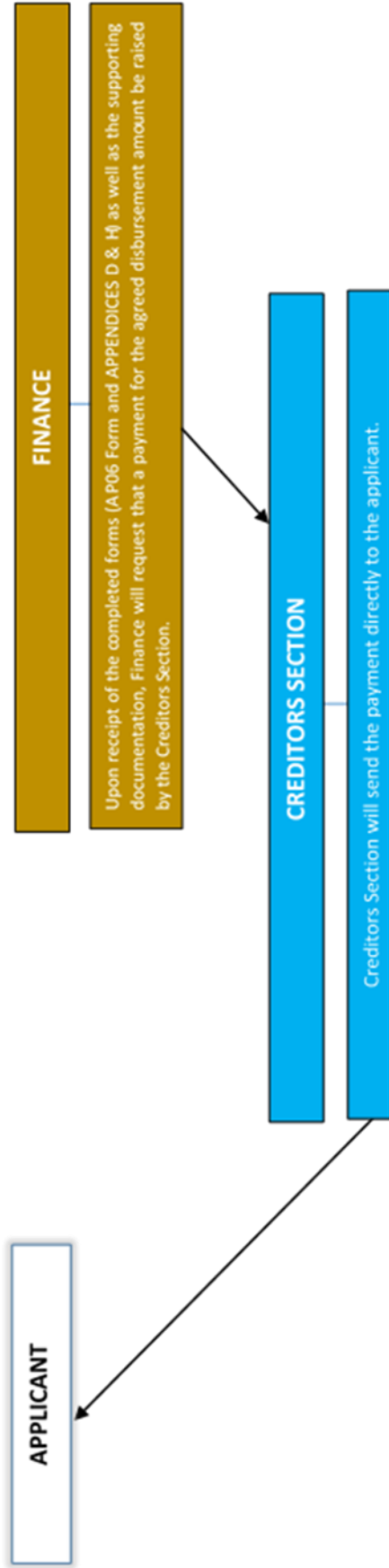


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graph TD
    Applicant[APPLICANT] --> AM[RELEVANT AREA MANAGER]
    AM --> AM1[Will consult Local Ward Members in relation to the application and they will be asked whether they agree with request and what the level of payment should be (APPENDIX G)]
    AM1 --> RLWM[RELEVANT LOCAL WARD MEMBERS]
    RLWM --> MA[IF THE MAJORITY ARE IN AGREEMENT AS TO WHETHER FUNDING SHOULD BE AWARDED AND THE APPROPRIATE LEVEL OF THIS]
    RLWM --> MNA[IF THE MAJORITY DO NOT AGREE]
    MA --> AM2[After consultation and consideration of the views expressed by the Members, the relevant Area Manager will determine the application and decide whether funding is to be awarded and the level of this.]
    MNA --> AM3[The relevant Area Manager will prepare a report for consideration by the Area Committee.]
    AM3 --> AAC[RELEVANT AREA COMMITTEE]
    AAC --> AM4[The relevant Area Committee may thereafter express a view as to whether funding should be awarded and the appropriate level in this regard.]
    AM4 --> AM2
    AM2 --> DA[IF DECISION TO APPROVE]
    AM2 --> DR[IF DECISION TO REJECT]
    DA --> AM5[Will advise applicant that their application has been successful, advising of the amount that will be paid and that this will be issued following receipt of the relevant paperwork e.g. paid invoice or receipt for work done (APPENDIX I). They will receive a request for completion of the End of Project Monitoring Form (APPENDIX J)]
    DR --> AM6[Will advise applicant of this and provide reasons as to why the application was unsuccessful (APPENDIX E)]
    AM5 --> Applicant
    AM6 --> Applicant
    AM5 --> Finance[FINANCE]
    Finance --> AM5
  
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The flowchart illustrates the funding application process. It begins with the **APPLICANT** submitting an application to the **RELEVANT AREA MANAGER**. The manager consults with **RELEVANT LOCAL WARD MEMBERS**. If the majority agree, the manager determines the application and funding level. If the majority do not agree, the manager prepares a report for the **RELEVANT AREA COMMITTEE**, which then expresses a view. The manager then decides whether to approve or reject the application. If approved, the applicant is advised of the successful outcome and the amount to be paid, and the application is forwarded to **FINANCE**. If rejected, the applicant is advised of the reasons for the unsuccessful application.

PROCESS FLOW CHART: STAGE 3 – PAYMENT OF FUNDS



List of Appendices

Appendix A is the application form, which must be completed by the applicant.

Appendix B is the template to acknowledge Receipt of the Application.

Appendix C is the template to e-mail Finance and Legal Governance regarding the application.

Appendix D is the template that the Area Manager uses to record the decision as to the competency of the application.

Appendix E is the template for advising the applicant that the application has been deemed not to be competent and the reasons why.

Appendix F is the template for advising the applicant that the application is competent and will be processed further.

Appendix G is the form to be completed by the Area Manager detailing the process by which each application was considered to be sent to Finance along with a completed AP06 form and supporting documentation.

Appendix H (along with Appendix D) is the template to be completed by the Area Manager where there is an agreement for an award of funds. This is passed to Finance for payment upon receipt of Invoices for the work/project once completed.

Appendix I is the template for advising the applicant that the application has been successful

Appendix J is the end of project monitoring form.

APPENDIX A

APPLICATION PACK CONSISTING OF

- A. APPLICATION FORM**
- B. ABERDEENSHIRE COUNCIL'S COMMON GOOD POLICY**
- C. INFORMATION FOR APPLICANTS**
- D. MODEL APPLICATION FORMS**

PART A: APPLICATION FORM



COMMON GOOD FUND – APPLICATION FOR ASSISTANCE

Aberdeenshire Council manages several common good funds. Please cross the box for the particular common good fund that your application relates to -

AREA COMMITTEE	NAME OF COMMON GOOD FUND AND AREA COVERED	PLEASE CROSS THE APPLICABLE FUND
BANFF AND BUCHAN	Aberchirder	<input type="checkbox"/>
	Banff	<input type="checkbox"/>
	Fraserburgh	<input type="checkbox"/>
	Macduff	<input type="checkbox"/>
	Portsoy	<input type="checkbox"/>
	Rosehearty	<input type="checkbox"/>
BUCHAN	Peterhead	<input type="checkbox"/>
FORMARTINE	Oldmeldrum	<input type="checkbox"/>
	Turriff	<input type="checkbox"/>
GARIOCH	Inverurie	<input type="checkbox"/>
	Kintore	<input type="checkbox"/>
KINCARDINE AND MEARNES	Inverbervie	<input type="checkbox"/>
	Laurencekirk	<input type="checkbox"/>
	Stonehaven	<input type="checkbox"/>
MARR	Ballater	<input type="checkbox"/>
	Banchory	<input type="checkbox"/>
	Huntly	<input type="checkbox"/>

PLEASE NOTE THAT EACH COMMON GOOD FUND CAN ONLY BE USED FOR THE BENEFIT OF THE PEOPLE OF THAT AREA ONLY.

SECTION 1: TO BE COMPLETED WHERE APPLICANT IS AN INDIVIDUAL PERSON (If making application on behalf of an organisation/group please go to Section 2 below)		
1.1 Full Name		
1.2 Address		
	1.3 Postcode	
1.4 Tel No		
1.5 Fax		
1.6 E-Mail Address		

1.7 Background Information
Please give a summary of the role that you play within the community

1.8 Aims and Objectives of Your Work
What are the aims and objectives of your work within the community including types of services provided and target client groups?

1.9 If applicable, how many people in the town regularly use the services/facilities offered by your organisation			
1.10 Please indicate how many are	Male	Female	Disabled

1.11 Do you make a charge to your users	YES <input type="checkbox"/>	NO <input type="checkbox"/>	If “yes” please give details below
1.12 Do you re-invest income raised back into the project? YES/NO If “Yes”, please give details of how the income is re-invested below. If “No”, please provide details of what happens to profit.			

Now go to Section 3 below

SECTION 2: TO BE COMPLETED WHERE APPLICATION IS MADE ON BEHALF OF AN ORGANISATION OR GROUP		
2.1 Name of Organisation		
2.2 Address of Organisation		
		2.3 Postcode
2.4 Registered Charity Number (where applicable)		
2.5 Name of Contact Person		
2.6 Address of Contact Person		
		2.7 Postcode
2.8 Tel No		
2.9 Fax		
2.10 E-Mail Address		

Background Information
2.11 Please give a summary of the history of your organisation, including when it was formed, links to any parent body etc

Aims and Objectives of Your Organisation
2.12 What are the aims and objectives of your organisation, including its current role in the community, types of services provided and target client groups?

2.13 If applicable, how many people in the Town regularly use the services/facilities offered by your organisation			
2.14 Please indicate how many are	Male	Female	Disabled
2.15 Do you make a charge to your users	YES <input type="checkbox"/>	NO <input type="checkbox"/>	If "yes" please give details below
2.16 Do you have a membership scheme	YES <input type="checkbox"/>	NO <input type="checkbox"/>	
2.17 How many members belong to your organisation?			
2.18 How many Members are	Male	Female	Disabled
2.19 Please give details of your membership fees			
2.20 Does your organisation have a constitution	YES <input type="checkbox"/>	NO <input type="checkbox"/>	
If "yes" please submit a copy of your constitution with your application			
2.21 Do you re-invest income raised back into the organisation? YES/NO If "Yes", please give details of how the income is re-invested below. If "No", please provide details of what happens to profit.			

Now go to Section 3 below

SECTION 3: TO BE COMPLETED BY ALL APPLICANTS				
3.1 What will you use the money for if successful?				
3.2 Please detail the total cost of your proposals (quotes are required for works over £5,000)				
ITEM OF EXPENDITURE			COST	
TOTAL COST				
AMOUNT REQUESTED				
3.3 Have you applied for any other sources of funding			YES <input type="checkbox"/>	NO <input type="checkbox"/>
Organisation	Date of App	Amount Requested	Amount Awarded	Date Award Expected

Declaration

I confirm that, to the best of my knowledge, all the answers given above are true and accurate. I understand that the details contained in this form will be processed by Aberdeenshire Council. I am aware that, by submitting this application, I am agreeing to the publication of the details contained in this application in any form deemed appropriate by Aberdeenshire Council. I also understand that the amount of conditions of any award granted will be made public.

Please sign and date EITHER Section A OR Section B below, as appropriate

A: Where application is made by an individual:

Signed

Dated

OR

B: Where Application is made on behalf of an Organisation or Group

I confirm I am authorised to sign this declaration on behalf of (insert name of organisation below)

Signed

Dated

SHOULD THE PURPOSE OF THIS REQUEST FOR FUNDS NOT BE CARRIED OUT, REPAYMENT OF THE FULL AMOUNT WILL BE REQUESTED.

Please attach the relevant enclosures.

Enclosures

- **Most Recent Accounts (audited where possible)**
- **Constitution or membership documentation**
- **Quotes (where appropriate)**

**Please submit this form to
AREA MANAGERS DETAILS**

FAIR PROCESSING NOTICE

WHO MAY PROCESS YOUR PERSONAL DATA?

The information which you provide on the attached form will be processed by Aberdeenshire Council, which is a Data Controller of this information for the purposes of the Data Protection Act 1998.

WHAT PERSONAL DATA WILL BE COLLECTED?

The information which you provide on the attached form. This includes:

- Personal contact details
- Financial Details relating to the Project or to the Organisation or Group

FOR WHAT PURPOSES WILL YOUR PERSONAL DATA BE USED?

The information which you provide on the attached form will be used by Aberdeenshire Council for the following purposes:

- Administration of an application for common good funds and an award of assistance where appropriate
- Maintenance of register of awards of common good assistance

WILL ABERDEENSHIRE COUNCIL DISCLOSE YOUR PERSONAL DATA TO ANYONE ELSE?

Yes. Your application will be forwarded to the following consultees while your application is being processed:

- The Finance Service of Aberdeenshire Council
- The Legal and Governance Service of Aberdeenshire
- The information on your application form may be held on a public register which may be available to members of the public on request.

IF YOU HAVE ANY QUERIES REGARDING COMPLETION OF THIS FORM, OR REQUIRE FURTHER ASSISTANCE, PLEASE CONTACT THE RELEVANT AREA MANAGERS OFFICE

PART B: ABERDEENSHIRE COUNCIL'S COMMON GOOD POLICY

Once Approved, the Common Good Policy will be inserted here as part of the application pack.

PART C: INFORMATION FOR APPLICANTS

INFORMATION FOR APPLICANTS ON COMMON GOOD FUNDS

WHAT ARE COMMON GOOD FUNDS?

Common Good Funds are generally made up of property (including land, buildings, investments and movable items) that belonged to the previous burghs of Scotland.

There are 17 funds in Aberdeenshire. Various common good properties and facilities generate income for these funds and the Council has a policy in place which sets out how that income can be used.

if sufficient income is available, funding can be provided for projects that benefit people living in the former burghs.

WHO CAN APPLY?

- An individual
- A non-profit making, constituted group
- A partnership of various groups

WHO CAN'T APPLY?

- Companies or organisations or groups that aim to make a profit

WHAT CAN WE FUND?

The Council may be able to award you money if you can show that your project relates to at least one of the criteria set out in the Council's Common Good Fund Policy (see Part B) above.

Your project could combine a range of different activities but must show direct community-wide benefit.

HOW MUCH CAN YOU GET?

The amount of funding available varies from fund to fund. You can get an indication of the level of each fund including annual income from our website at www.aberdeenshire.gov.uk/commongoodfunds

The money you request should be realistic and give value for money. The Council expects that you will also contribute something towards the project. This need not necessarily be money, but something in kind, such as time, materials, transport or use of premises. If your group has more savings than the amount of money you are applying for, you should explain to the Council what you're planning to do with this money. If you have not set aside this money for anything in particular, it is not likely that the Council will award you any funding.

You should only make one application at a time.

WHAT CAN'T WE FUND?

- Activities promoting religious or political beliefs
- Travel costs for exchange visits or trips unless there is a wider benefit to the local community
- Administrative costs for community councils over and above their annual grant from Aberdeenshire Council
- Applications to cover an organisation's running costs or capital investments
- Applications for projects which another organisation has a legal right or duty to provide
- Projects that do not benefit the wider community
- Applications from individuals or organisations that do not live or operate within the area covered by the particular Common Good Fund
- Organisations seeking to make a profit using Common Good Funding

HOW DO WE APPLY?

You can get an application form

- By phoning your local area office.
- In person from any Area Office
- By downloading a form at www.aberdeenshire.gov.uk/commongoodfunds

The content of this publication, or sections of it, can be made available in alternative formats or translated into other languages. Please contact XXX for further assistance.

WHAT DO I DO NEXT?

Make sure you complete the application form as fully as possible. If the Council has to ask for any additional information, this delays your application.

Applications will take approximately two months to process so make sure you submit your application in plenty of time. Please note that the timescale for processing a significant funding request may be much longer to enable the Council to consider the priority of the project in relation to other requests against the particular Common Good Fund.

When you submit your application for, you must also enclose the other documents required, which are:

- Most Recent Accounts (audited where possible)
- Constitution or membership documentation
- Quotes (where appropriate)

If you have any other information that you would like to submit in support of your application, please do so

WHERE DO I SEND MY APPLICATION FORM?

You can send your application form, with the required documents to:

XXXX

Alternatively, you can complete your application and e-mail it with the required documents to: [XXXXX](#)

WHAT HAPPENS NEXT?

Your application and additional documents will be checked to see if everything is complete. If your application is not complete, you will be contacted for the missing information. This may involve returning the application to you. An incomplete form will certainly cause delay so please make sure you submit everything that is needed to process the application.

Once the Council is satisfied that the application is complete, you will receive an acknowledgement of the application within five working days. This will include a reference number for the application. You should use this reference number in any correspondence with the Council relating to the application.

Your application will then be assessed and a determination will be made by the Area Manager that your application is competent in terms of the criteria set out in the Council's Common Good Policy.

Then either:

- If your application is deemed not to be competent, you will be notified of the reasons why your application is not competent. The application will not be processed further; or
- You will be notified if your application is competent and that your application will be processed further.

Competent applications will then be processed further and a decision will be made in respect of your application, either by an officer, following consultation with the relevant Members, or by the relevant Area Committee, where agreement cannot be reached

WHAT HAPPENS ONCE A DECISION IS MADE?

You will receive a letter advising you that your application has been successful and telling you how much funding has been awarded and when it will be paid.

You must spend the money within one year of the date on the award letter and complete an end-of project monitoring report.

You will need to submit copies of receipts where funding is for the purchase of equipment, materials etc. prior to payment being made.

If your application is not successful, you will receive a letter advising you of the reasons why.

YOU CAN APPLY AGAIN

Applications are welcome from groups or individuals who have received funding previously. Once you have spent your funding and you have submitted your end-of-project monitoring report, you can apply again.

Each application will be considered individually and there is no guarantee that further funding will be awarded.

If you have had an application turned down, you can also apply again. You will always be advised of the reasons why applications were not successful.

PLEASE READ THIS SECTION CAREFULLY

YOU MUST READ, UNDERSTAND AND ACCEPT THIS SECTION BEFORE YOU APPLY TO THE COUNCIL

ALL OUR DECISIONS ON APPLICATIONS ARE FINAL

- Once funding is paid out, the Council is not committed to give you any more funding for the same project.
- The application form may not necessarily provide all the information required to make a decision on your application. The Council can ask you for additional information.
- Do not try to influence the success of your application by approaching any Council staff or Elected Members after you have submitted your application
- The Council may use your name/the name of your organisation or group in its own publicity material and may ask you to participate in a photo call
- **By signing the application form, you agree that all the information is true and that the enclosed documents are current, accurate and approved or adopted by you or your organisation or group**

WHAT WILL THE COUNCIL DO?

The Council aims to:

- Be easy to contact for a wide range of organisations and communities, large and small, and make special efforts to give all individuals and groups the same chance to apply for funding
- Give funding that reflects the culture and ethnic origin of groups and communities across Aberdeenshire
- Be open and responsible, fair and balanced in the way we do things; and
- Offer equal opportunities in all areas of our funding.

The Council will:

- Monitor and assess what we do, to make sure that we are providing the best service we can
- Answer all questions quickly, professionally and politely
- Assess all applications against the Common Good Fund Policy Criteria; and
- Make sure that everyone who applies for funding is treated fairly

Being Polite and Helpful

The Council aims to be efficient, polite and supportive in everything it does. We can assist you in completing your application form

We want your Comments and Suggestions

We are committed to giving you helpful information in the best way possible. If you have any comments or suggestions about how we could do things better, please let us know.

PART D: MODEL APPLICATIONS
TO BE INSERTED

APPENDIX B

Draft wording to acknowledge receipt of application.

Send by e-mail where possible or letter.

Dear Sir/Madam

I write to acknowledge receipt of your application for funds from the XXX Common Good Fund.

I will now consult with colleagues in Finance and Legal and Governance to make sure the application complies with the terms of Aberdeenshire's Common Good Policy.

Following consultation I will either:

1. write to confirm that your application is considered to be competent and will be processed to determine whether an award of funds will be made in relation to the application; or
2. write to advise that your application is not considered to be competent, giving the reasons why.

APPENDIX C

Draft Wording for Consultation With Finance and Legal and Governance

Send by e-mail

Please find attached an application seeking an award of funds from the XX Common Good Fund.

Please advise me of the following by XXX (7 days at the latest):

- Finance: The Current balance on the fund and information regarding past funding.
- Legal and Governance: An opinion as to whether or not the application meets the terms of the Council's Common Good Policy and a recommendation as to the competency of the application.

APPENDIX D

DETERMINATION OF COMPETENCY OF APPLICATION BY AREA MANAGER

To be completed electronically

Name of Common Good Fund			
Name of Area Manager			
Application Received from:			
Purpose of Request and Amount Requested			
Date Application Form Sent Out			
	YES	NO	Date
Application form Returned	<input type="checkbox"/>	<input type="checkbox"/>	
Accounts Received	<input type="checkbox"/>	<input type="checkbox"/>	
Constitution/Membership Details Received	<input type="checkbox"/>	<input type="checkbox"/>	
Quotes (Where applicable)	<input type="checkbox"/>	<input type="checkbox"/>	
Details of any other information Received			
	Date Sent		Date of Response
Information to Finance			
Information to Legal			
Determination of Competency by Area Manager. Either			
a. The application is competent because:			
b. The application is deemed not to be competent for the following reasons:			
Date of determination of competency			

This form also forms part one of Appendix H below

APPENDIX E

Draft wording for Advising Applicant that Application is not competent.

To be sent by e-mail or letter

Dear Sir/Madam

I refer to your application requesting funds from XX Common Good Fund on behalf of [insert name of organisation].

I write to advise you that, following consultation with our Finance and Legal and Governance Teams, I have determined that your application is not competent in terms of the criteria set out in Aberdeenshire Council's Common Good Policy. This determination has been made for the following reasons:

- Insert reasons why application is not competent.

As a result of this determination, your application will not be processed further.

It may be the case that your organisation can submit a further application to the Common Good Fund that does meet the terms of the criteria set out in the Council's Common Good Policy.

Please contact me at XXX if you require any advice or assistance in respect of making a further application.

Yours faithfully

Area Manager

APPENDIX F

Draft Wording for Advising Applicant that Application is Competent.

Dear Sir/Madam,

I refer to your application requesting funds from XX Common Good Fund on behalf of [insert name of organisation].

I write to advise you that, following consultation with our Finance and Legal and Governance Teams, I have determined that your application is competent in terms of the criteria set out in Aberdeenshire Council's Common Good Policy.

Your application will now be processed further to determine if an award of Funds is to be made in respect of your application and, if so, what the level of award will be.

I will notify you of the decision by XXX at the very latest.

Yours faithfully,

Area Manager

APPENDIX G

Draft Wording for consulting with Chair/Vice Chair/Local Ward Members

To be sent by e-mail

Dear Councillors

Please find attached an application by [insert name of organisation] for an awards of funds from the [insert name] Common Good Fund.

The amount available in the Common Good Fund is currently XXXX

The amount sought by the organisation is XXX

Please advise me of the following by XXX at the very latest:

- If you agree to an awards of funds being made in respect of this application or not and
- If in agreement whether the full amount sought should be awarded or advise me of what lesser amount should be awarded in the circumstances.

Yours faithfully

Area Manager

APPENDIX H

Form to be completed by Area Manager Where there is agreement for an Award of Funds

To be completed electronically

Appendix D above forms part one of the form.

Part two of the form to be completed is as follows:

Date of Consultation with Chair/Vice Chair/Local Members				
Name of Councillor	Ward	Agree	Not Agree	Amount of Award
Chair		<input type="checkbox"/>	<input type="checkbox"/>	
Vice Chair		<input type="checkbox"/>	<input type="checkbox"/>	
		<input type="checkbox"/>	<input type="checkbox"/>	
		<input type="checkbox"/>	<input type="checkbox"/>	
		<input type="checkbox"/>	<input type="checkbox"/>	
		<input type="checkbox"/>	<input type="checkbox"/>	
If agreement is reached by all Councillors complete Section A below If no agreement is reached complete section B below				
Section A				
Date of letter to Applicant informing of decision and requesting that copies of invoices and evidence of payment is required before reimbursement can be made				
Date paperwork passed to Finance with authorisation for payment (paperwork to consist of XXXX)				
Section B				
Area Manager to draft a report to Area Committee for a decision to be made on application. Date of Committee will be				
Decision of Committee				
Where the decision is to grant award, Area Manager to complete Section A Where the decision is refuse the award, Area Manager to advise the applicant of the Committee's decision by e-mail or letter.				

APPENDIX I

Draft words informing Applicant of Successful Award of Funds

To be completed by e-mail or letter.

Dear Sir/Madam

I refer to your application requesting funds from XX Common Good Fund on behalf of [insert name of organisation].

I write to advise you that your request has been considered and it has been decided that an award of £XXX will be made in respect of your application.

Please be advised that payment will only be made upon receipt of evidence that the work has been done or project complete. Please submit any paid invoices/receipts to the following address:

Insert Address Here.

Aberdeenshire Council also requests that you complete the attached Project Monitoring Form once the work has been completed.

Yours faithfully,

Area Manager

APPENDIX J



COMMON GOOD FUND – END OF PROJECT MONITORING FORM

Aberdeenshire Council needs to account for all funding allocated from the Common Good Funds it manages. The Council therefore requests that you complete all sections of this form.

Name of Person or Organisation			
Contact Details			
Project Funded			
Amount Awarded From Common Good Fund			
Finance: Please provide a full breakdown of all costs			
Description (from original grant application form)	Projected Costs	Actual Costs	
Match Funding: please provide details of any match funding received			
Grant Scheme	Description	Amount	

Did you Meet the aims of the project – please give details (the main facts and figures about actual activities, for example the number of people the organisation or project worked with and the main activities undertaken.

What difference did your project make? (This section should also include examples of how individual participants/services users experienced the project/activity – case studies/quotes can be used)

Key Learning Points (please detail any unexpected outcomes (positive and negative) including anything that would be done differently in the future)

Do you have any comments to make to help us to improve the common good fund process?

Signature:	
Print Name:	
Position Held in Organisation (if applicable):	
Date:	

Please note: Aberdeenshire Council reserves the right to request copies of all receipts for expenditure.



Section 3

**List of Funds and Estimated Annual Income available
from those funds**

AREA COMMITTEE	NAME OF COMMON GOOD FUND AND AREA COVERED	ESTIMATED ANNUAL INCOME FROM FUND
BANFF AND BUCHAN	Aberchirder	
	Banff	
	Fraserburgh	
	Macduff	
	Portsoy	
	Rosehearty	
BUCHAN	Peterhead	
FORMARTINE	Oldmeldrum	
	Turriff	
GARIOCH	Inverurie	
	Kintore	
KINCARDINE AND MEARNES	Inverbervie	
	Laurencekirk	
	Stonehaven	
MARR	Ballater	
	Banchory	
	Huntly	

Appendix 2

Comments from Area Committees

Formartine Area Committee – 21st March 2017

Reference	Comment	Observations by Officers	Changes or Recommendations to Policy Committee
FAC 21.03.2017	<p>The Committee provided the following comments:-</p> <ul style="list-style-type: none"> a. Can further consideration be given to the definitions of who can apply as, at present, it would appear to exclude all social enterprises, and b. Can it be confirmed whether groups can apply for loans. <p>Officers can confirm that it is not possible for applicants to apply for loans from the common good funds at the current time. See comments from Ross Brennan attached. Further work would need to be done before loans can be incorporated into the policy</p>		

Kincardine & Mearns Area Committee – 21st March 2017

Reference	Comment	Observations by Officers	Changes or Recommendations to Policy Committee
KMAC 1	Suggest that a six monthly or annual report be prepared for Area Committee, as part of the process, on applications that are deemed incompetent.		
KMAC 2	Suggest that the terminology be altered from 'incompetent' to not competent.		

Banff & Buchan Area Committee – 28th March 2017

5	Common Good Funds	<p>The Committee agreed to make the following comments to be submitted to the Business Services Committee:</p> <ol style="list-style-type: none"> 1. as per the Notice of motion agreed by the Area Committee on 07 March 2017: <ol style="list-style-type: none"> a) <i>Officers produce a full income and expenditure report on Banff Common Good showing all income, expenditure, assets, capital and revenue balances for the past 5 years.</i> b) <i>Officers adhere to the practice and delegated authority regarding applications to Common Good specifically any decisions rests with members and for members to consider all applications from the outset in consultation with legal and governance and finance officers.</i> c) <i>Local members are informed of all applications and applications are copied to members for their information and assessment of eligibility within the statutory eligibility for the disbursement of funds.</i> d) <i>Public notices are placed in the press notifying the community of the fund and requesting applications</i> e) <i>There is recognition of the historic process of awarding Common Good financial support is in the first instance ward councillors and where ward councillors do not unanimously agree the application(s) is presented to area Committee for final decision.</i> 2. Members should have sight of <u>all</u> applications received, 3. Competence should be determined by the Area Committee rather than the Area Manager, 4. In relation to Paragraph 2 of the letter which is sent to advise an applicant that the application is not competent, the wording should read “The Area Committee has determined that your application is not competent”.
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Marr Area Committee – 28th March 2017

Reference	Comment	Observations by Officers	Changes or Recommendations to Policy Committee
Common Good	<p>To request a briefing note on the estimated annual income from each common good fund in Marr.</p> <p>Welcomed the policy intent that Ward Members would be at the heart of decision making with assistance from Area Manager.</p>		

Verbal updates from Buchan and Garioch Area Committees will be provided at the Committee.

Notes re the potential of loans from Common Good Funds from Ross Brennan

The question on the loans isn't that straightforward, but I've consulted with my friend at CIPFA Scotland's Technical Enquiry Service, and colleagues in Finance, and a summary of our conclusions is as follows:

- 1) There does not appear to be any specific restriction placed on a non-charitable common good's ability to lend monies to third parties.
- 2) The Council's Treasury Management Strategy would require to be amended to allow this happen.
- 3) We would need to consider the process and any potential costs to the Common Good Funds.

The detailed analysis is set out below. I've included links in case you want to look at them.

Ability of Common Good to Lend Money to Third Parties

Investments by Councils are covered by the Scottish Government's Finance Circular 5/2010 – Investment of Money by Scottish Local Authorities (<http://www.gov.scot/Resource/Doc/1070/0097187.pdf>).

Part 1 Para 14 includes "Section 40 of the 2003 (**Local Government in Scotland**) Act applies to those bodies identified by section 61 of the 2003 Act. This covers the 32 councils, the police and fire boards, and through the Transport (Scotland) Act 2005, the regional transport partnerships. **It applies to the investment of money forming part of the Common Good, except where the Common Good property and assets are held by a charity.**"

Our Common Good property and assets are not held by a charity, so investments by the Common Good would be covered by this (See section 40 on the power to invest monies here <http://www.legislation.gov.uk/asp/2003/1/section/40>).

Part 2 para 9 (c) (definition) "Loans made to third parties are investments" – so loans would be covered by this circular.

Part 2 para 23 "The local authority will identify separately the permitted investments relating to the Common Good." – see next section.

So, unless you are aware of any subsequent legislation that contradicts this, it appears that Common Good Funds can give out loans.

The Council's Treasury Management Strategy

It then becomes a question of would we want them to, and how would we go about it? We need to consider the Council's Treasury Management Strategy in this regard, and I've consulted with Chris Smith on this, as he writes it.

Each year the Council has to report its Treasury Management Strategy to Business Services Committee, and the strategy for 2017/18 was approved at Business Services Committee on 2 March 2017. The Strategy includes a schedule of permitted investments, and whilst there is a separate reference within the schedule to Common Good investments, there is no mention of loans to third parties from the Common Good Funds. Loans to third parties by the Council are detailed individually in the strategy.

Our view is that the Treasury Management Strategy would need to be amended to allow our Common Good funds to award loans, and this would require approval by Business Services Committee.

Process and Potential Costs

Currently, all loans to third parties are also approved individually by Business Services Committee, so I'm not clear whether the Scheme of Delegation would mean that Area Committees could approve loans by Common Good Funds subject to the amendment of the Treasury Management Strategy, or whether these would need to be approved by Business Services Committee.

We would also need to have due regard to the LASAAC Guidance that I sent to you last October. This guidance generally supports transparency regarding the stewardship and use of Common Good funds, and any loans would need to be for any lawful purpose for the benefit of the inhabitants.

We would need to apply due diligence to the loans, whether we wanted to ask for any security over them, and carry out a credit risk assessment of the organisation. We would also need to apply professional Codes of Practice with regard to the loans.

The terms of the loan would also be important, for example special accounting treatment applies if loans are given at a rate that is below the market rate, as there is then a cost to the Common Good Fund. We would need to consider whether there is any risk of bad debts, and may need to include provision for this.

