

COMMON GOOD GUIDANCE

What is Common Good?

‘The Common Good’ was a centuries-old way for assets to be used for the good of all of the local inhabitants of a settlement and was often gifted to the people or simply recognised as belonging to everyone. The first Common Good Act dates back to 1491.

Prior to the Local Government Reorganisation in 1975, these were held by the old Burghs. These days, the combination of Common Good Funds (the money we hold) and Common Good Assets (property, normally land, but other articles too) which was formerly owned by the Burgh is operated by Aberdeenshire Council in accordance with the Local Government (Scotland) Act 1973.

Common Good is not owned by the Community, nor is it held in trust for the Community. The Common Good is now owned by the relevant Local Authority – in our case, Aberdeenshire Council.

Our Role and Responsibilities

Duties

Aberdeenshire Council must adhere to legal requirements relating to both Common Good Funds and Common Good Lands as set out in:

- [The Local Government \(Scotland\) Act 1973¹](https://www.legislation.gov.uk/ukpga/1973/65/contents)
- [The Local Government etc. \(Scotland\) Act 1994²](https://www.legislation.gov.uk/ukpga/1994/39/contents)
- [The Community Empowerment \(Scotland\) Act 2015³](https://www.legislation.gov.uk/asp/2015/6/contents)

The Council also has a duty to secure best value by balancing the quality of its performance of its functions, the costs to the authority of the performance of its functions and the cost to persons of any service provided by the authority to them.

The Council must also have regard to efficiency, effectiveness, economy, and equality of opportunity in making decisions.

The Council must also comply with Guidance issued by the Local Authority Scotland Accounts Advisory Committee (LASAAC) and endorsed by the Chartered Institute of Public Finance and Accountancy (CIPFA) entitled: Accounting for the Common Good Fund: A Guidance Note for Practitioners in how we account for monies accrued and how we spend common good monies so there are financial restrictions on the Council in how the funds are managed. This document is currently under review.

¹ See: <https://www.legislation.gov.uk/ukpga/1973/65/contents>

² See: <https://www.legislation.gov.uk/ukpga/1994/39/contents>

³ See: <https://www.legislation.gov.uk/asp/2015/6/contents>

Remit

Aberdeenshire Council's [Scheme of Governance](https://www.aberdeenshire.gov.uk/council-and-democracy/scheme-of-governance/)⁴ sets out the remit of its Committees and Officers in relation to the Common Good.

- The Business Services Committee has power to approve policies for the management and investment of any funds including the common good.
- Area Committees have authority to administer Common Good Funds and Trusts controlled by the Council for the benefit of their area.
- Financial Obligations are set out in the Financial Regulations.
- Officers have powers to process applications for use of the funds in line with approved Council procedures.

Aberdeenshire Councillors act as “Custodians” of the Common Good, when making decisions in relation to common good fund applications, property and assets. Their role is similar to being a Trustee of a Trust Fund rather than acting as a Councillor.

Types of Common Good

Common Good Funds

The Council is the steward of public money locally but the Common Good Fund – the money we hold - is special and must be administered separately from other Local Authority funds for accounting purposes. The Local Authority decides what to do with the Funds (and Assets) but in doing so must have regard to the interests of the inhabitants of the area to which the common good relates. There are 17 funds covering many different areas in Aberdeenshire. Not every area of Aberdeenshire has a common good fund:

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	12
KINCARDINE AND MEARNS	Inverbervie	19
	Laurencekirk	19
	Stonehaven	18
MARR	Ballater	15
	Banchory	16
	Huntly	14

⁴ See: <https://www.aberdeenshire.gov.uk/council-and-democracy/scheme-of-governance/>

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.

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.

To enable us to properly administer our Common Good Funds, we have a Common Good Policy. [You can access further information on our Policy and how to apply for funds here](#)⁵.

Common Good Assets

Apart from the money we hold in a bank account, the Council also owns Common Good Assets, so that can be buildings, or sometimes precious things- jewellery, artwork etc. It is most often land. The Council can sell common good assets or can lease them to make money from them. It is sometimes necessary to get permission from the Court to use Common Good assets in a certain way and that makes Common Good different from other public assets the Council controls. It can also present challenges in using the assets effectively that may not otherwise exist. It is however necessary to ensure that the interests of the local community are safeguarded.

Part 8 of the Community Empowerment (Scotland) Act 2015 requires the Council to publish a Common Good Asset Register. [You can access the register here](#)⁶.

Common Good Land / Property

There is no legal definition of Common Good Land, although, over the years the Courts have provided some guidance through case law.

What can be said to be Common Good land is land which was owned by the former Burgh Councils prior to Local Government Re-organisation in 1975 and was not acquired under any Act of Parliament, not held by a separate trust, and fulfils one of the following three conditions:-

Custom	Used by the general public since time immemorial.
Dedication	Land formally dedicated to a Burgh Council to a public function.
Grant	Land held subject to terms or conditions ensuring that public use is maintained in perpetuity.

⁵ See: <https://www.aberdeenshire.gov.uk/commongoodfund/>

⁶ See: <https://publications.aberdeenshire.gov.uk/common-good-asset-register>

Establishing whether land or property is common good is an ongoing process, as queries arise and is a resource intensive process for officers in our Legal and People Service.

1.	Properties where there is no doubt that it is common good.
2.	Properties which may have been common good but have lost that status.
3.	Properties where the common good status is uncertain.

[You can access further information on Common Good Land / Property here⁷.](#)

⁷ See: <https://www.aberdeenshire.gov.uk/council-and-democracy/community-empowerment/common-good-properties/>