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**STIRLING COUNCIL****CIVIC SERVICES**

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**9 October 1997****NOT EXEMPT**

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**STIRLING BURGH COMMON GOOD FUND**

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**1 PURPOSE**

- 1.1 The purpose of this report is to provide information about the Stirling Burgh Common Good Fund which is now the responsibility of Stirling Council and to propose arrangements for the management and administration of the Fund.

**2 SUMMARY**

- 2.1 The Stirling Burgh Common Good Fund is the residue of property held on behalf of the community for 'the common good' since the earliest forms of local government in the Scottish Burghs. The management and administration of the Stirling Burgh Common Good Fund passed to the former Stirling District Council at the reorganisation of local government in 1975 and has now passed to Stirling Council in terms of the Local Government etc (Scotland) Act 1994.
- 2.2 The Stirling Burgh Common Good Fund comprises a number of properties in Stirling which are leased to the Council with rent accruing to the Fund and cash balances amounting to some £175,000 invested with income accruing to the Fund. Annual income from rents and investments is of the order of £60,000. There is a need to agree arrangements for management and administration of the Fund. This report proposes the establishment of a Common Good Fund Panel with delegated powers to determine applications for expenditure from the Fund up to £10,000 in each case. The Common Good Fund Panel would have a responsibility to report annually to the Council on the management and administration of the Fund.

**3 RECOMMENDATION(S)**

- 3.1 It is recommended that the Council give consideration to the establishment of a Common Good Fund Panel comprising three Members (two Labour and one Conservative to reflect political balance), with the remit and delegated powers as specified in the Appendix to this report.

## 4 CONSIDERATIONS

- 4.1 The concept of the 'common good' has existed at least since the fifteenth century. It refers to property which is held on behalf of the community of a particular area. The title deeds of such properties include a statement that they are to be held and used for the benefit of the community, or some similar phrase. Since their creation, it was the responsibility of the Burgh Councils to hold and administer such properties, and any monies relating to them, for the benefit of the people living within the Burgh boundaries. In effect, therefore, the Burgh Councils could not regard the common good properties and funds as simply part of the Council's assets. As they held properties as representatives of the wider community, they had to consider the interests of that community when dealing with the common good properties and funds.
- 4.2 At the reorganisation of local government in 1975 the common good properties and funds of the former Councils were transferred to the appropriate District Councils. Section 222(3) of the Local Government (Scotland) Act 1973 placed a duty on the District Councils, in administering the common good properties and funds, to 'have regard to the interests of the inhabitants of the area to which the common good formerly related', which means, in the case of the Stirling Burgh Common Good Fund, those within the old Burgh boundary. The Local Government etc (Scotland) Act 1994 transferred the common good properties and funds to the appropriate new Councils, subject to the same duty. Therefore, the Stirling Council now has responsibility for the Stirling Burgh Common Good Fund and must have regard to the interests of the inhabitants of the former Burgh in its management and administration of the Fund.
- 4.3 There have been many court cases over the years defining the scope of local authorities' powers and duties in relation to common good properties and funds. As they are held for the benefit of the community, the Council is not at liberty to sell common good property as it sees fit. There are provisions requiring a Council to apply to the Sheriff Court or the Court of Session for authority to sell common good property and, in doing so, the Council would be required to demonstrate why it is in the interests of the community for the property in question to be sold. In the case of Stirling, the former Burgh Council held a number of common good properties, such as the Steeple, the Council offices in King Street, part of the old town wall in Dumbarton Road and an area of land at St Mary's Wynd. A number of these properties are leased to the Council itself and a rent is paid by the Council to the Common Good Fund.
- 4.4 In addition to the common good properties there are cash balances amounting to around £175,000 which are invested. Investment income and rental income from properties together produce slightly over £60,000 per annum income to the Fund. This income can either be accumulated by the Fund or spent on purposes for which the Common Good Fund can be used. In recent years the maintenance of clocks within the former Stirling Burgh and the expenditure falling within the 'Civic Pride' programme have been met from the Common Good Fund.
- 4.5 As matters presently stand, decisions about expenditure from the Common Good Fund would require to be taken by the Council itself. However, it may be considered appropriate to grant some measure of delegated authority to a small Common Good Fund Panel so that small applications for expenditure (say up to £10,000 in each case) can be determined quickly by the Panel meeting on an *ad hoc* basis as and when

required. It is suggested that the Common Good Fund Panel should comprise three Members (two Labour and one Conservative to reflect the political balance). Given the historical and civic nature of the Common Good Fund it may be appropriate that the Provost Chair the Common Good Fund Panel. A suggested terms of reference and delegated authority to the Common Good Fund Panel is as set out in the Appendix to this report.

## **5 POLICY IMPLICATIONS**

5.1 The appropriate use of the Stirling Burgh Common Good Fund would contribute to the promotion of the Council's vision and values and, in particular, the promotion of the distinctive identity and civic pride of the former Stirling Burgh as part of the Stirling Council area.

## **6 CONSULTATIONS**

6.1 The Chief Executive and Director of Finance and Information Services have been consulted on the terms of this report.

## **7 RESOURCE IMPLICATIONS**

7.1 There are no resources implications for the Council itself as a result of what is recommended in this report.

## **8 BACKGROUND PAPERS**

8.1 None.

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Approved by

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Date \_\_\_\_\_ Reference   rj/ks/repcomgf