

**Accounting for the Common Good Fund: Guidance for Practitioners**

**May 2023**

**Contents**

|  |  |  |
| --- | --- | --- |
| **Section** | **Title** | **Pages** |
| 1. | [Introduction](#Intro) |  |
| 2. | [Accounting and Application of the Code](#Accounting) |  |
|  | [Common Good in Relation to Other Accounts of the Local Authority](#CGtoAcctsofLA) |  |
|  | [Common Good Funds as a Single Entity](#CGasaSingleEntity) |  |
|  | [Presentation of Common Good Fund Statements](#Presentation) |  |
|  | [Narrative Reporting](#Disclosureforward) |  |
|  | [Income and Expenditure Statement (IES)](#CIES) |  |
|  | [Common Good Balance Sheet](#Balancesheet) |  |
|  | [Disclosure Notes](#Disclosurenotes) |  |
|  | [Asset Registers](#Assetreg) |  |
|  | [Transfer, Disposal and Change of Use of Common Good Land and Property](#Assetdisp) |  |
|  | [Group Accounts](#GroupAccts) |  |
|  | [Audit](#Audit) |  |
| 3. | [Financial Management of Common Good Funds](#FinManagement) |  |
|  | [Common Good Revenues](#CGReserves) |  |
|  | [Asset Registers](#Assetreg) |  |
|  | [Powers to Borrow](#Borrowing) |  |
|  | [The Common Good and the Local Authority Loans Fund](#Loansfund) |  |
| 4. | [Common Good Funds and Charitable Status](#CharitableStatus) |  |
|  | [Appendix 1.](#Appendix1) Historical Context |  |
|  | [Appendix 2.](#Appendix2) Trust Funds |  |

1. **Introduction**
	1. Section 12 of the Local Government in Scotland Act 2003 introduced a requirement that local authorities adhere to ‘proper accounting practice’. The Act effectively formalised the accounting framework within which local authorities now operate. The Code of Practice on Local Authority Accounting (the Code) is recognised as representing proper accounting practice. **This document is expected to be used alongside the Code from 2022/23, providing mandatory guidance for the accounting of Common Good funds in Scottish Local Authorities.**
	2. This guidance supersedes previous LASAAC guidance on Accounting for Common Good that was issued on 1 December 2007. This accounting guidance is aimed at finance practitioners and is intended to provide consistency to this area of accounting through its mandatory application. The guidance has been updated to reflect current financial management practices and relevant legislative changes.
	3. Given the sole applicability of the Common Good to Scotland and the role of LASAAC, it is intended that consistent and transparent financial reporting can be achieved by the application of this guidance. Given the wider interest that this document may attract, it sets out not only guidance but also contextual information in an appendix (appendix 1) to enable local authorities to achieve the stated objective of consistent and transparent reporting.
	4. This guidance primarily considers the Common Good funds of local authorities in Scotland. Appendix 2 of this guidance covers further information relevant to the Trust Funds of local authorities in Scotland.
	5. Where a Common Good fund is registered as a charity with the Office of the Scottish Charity Regulator (OSCR), part 4 of the Local Authority Accounts (Scotland) Regulations 2014 requires that body to comply with the accounting requirements of the Charities SORP and other accounting and financial reporting requirements set out by OSCR. This is in addition to the disclosure requirements set out in this guidance.
2. **Accounting and Application of the Code**

**Common Good in Relation to Other Accounts of the Local Authority**

* 1. Section 93(1) of the Local Government (Scotland) Act 1973 requires every local authority to have a General Fund, and that:
* all sums received by or on behalf of the authority shall be paid into that fund; and
* all fees, commissions, discounts allowed on payment of accounts and expenses payable to or recovered by any officer of a local authority in respect of any business relating to the authority whether by reason of his office or otherwise, should be accounted for and paid into that fund, and all sums payable by the local authority shall be paid out of that fund.
	1. Under section 93(2)(b), however, it is provided that 93(1) does not apply to sums received or payable to common good funds of the council. This has been generally interpreted within the Code as the requirement to maintain separate financial statements for Common Good funds of a local authority.

**Common Good Funds as a Single Entity**

* 1. The legislative background which effectively ring-fences common good funds supports the view that the expectation of primary legislation is that such funds remain separate from the local authority. As set out in para 2.2 above, this legislation has been interpreted in accounting terms as the requirement to prepare and disclose a separate set of financial statements for Common Good Funds.
	2. As a separate set of financial statements, practitioners will need to apply the provisions of IAS 1 *Presentation of Financial Statements* regarding the going concern position of the Common Good Fund.
	3. While Common Good funds are required to be kept separate from the General Fund of the local authority, there is however no such prescriptive accounting requirement. This guidance recognises the legislative distinction of Common Good funds as a managed fund, the stewardship of which requires disclosure within the local authority’s financial statements.
	4. LASAAC’s view is that Common Good funds should be the subject of a separate disclosure to the local authority financial statements. The disclosure should take the form of limited ‘financial statements’ namely, an income and expenditure account and balance sheet.
	5. This guidance mandates that local authorities shall account for revenues for non-charitable Common Good funds in accordance with IFRS 15 *Revenue from Contracts with Customers* and IPSAS 23 *Revenue from Non-Exchange Transactions* in line with the Code. For those Common Good funds that remain registered charities, they will need to follow the accounting requirements of the Charities SORP (see section 4 below).
	6. In this guidance LASAAC maintains its previous approach that all monies of Common Good funds should be capable of being distributed. This approach therefore requires that assets should be depreciated and set against any surplus in the income and expenditure account. The statutory adjustments required by the Local Authority Capital Accounting framework are not permitted.
	7. Assets of Common Good funds should be measured initially at cost and, where included at current or fair value, they should be revalued with sufficient regularity to ensure that the carrying amount doesn’t differ materially from current or fair value, and in any event at intervals of no greater than five years. The valuation bases by category considered appropriate are:
* Community assets – historical cost net of depreciation
* Operational land and properties – lower of net current replacement cost or net realisable value
* Other operational assets – lower of net current replacement cost or net realisable value
* Investment properties – fair value
* Investments – fair value

**Presentation of Common Good Fund Statements**

* 1. The Common Good statements should be presented as a separate disclosure with the single entity financial statements. The requirement for consistent reporting and transparency must however be balanced against proportionality. The disclosures required therefore are less prescriptive than that required by a local authority single entity but recognise and reflect the legislative distinction of these funds.
	2. The following minimum statements should therefore be applied. The level and extent of disclosure beyond the minimum is a matter for each local authority. Further disclosure may be desirable where for example the fund has undertaken significant investment in the financial year.

 **Narrative Reporting**

* 1. Disclosure narrative should briefly explain the purpose and background of the Common Good fund. The accounting policies, where different from that of the local authority, should be highlighted.
	2. LASAAC would recommend that authorities consider disclosure of their policy position in relation to the use of Common Good assets and resources. This should consider who pays for what when there is operational use of Common Good assets and resources by the general fund or housing revenue account services. This policy position should also consider the impacts of changes in the use of Common Good assets and resources to or from the general fund of the housing revenue account.

**Income and Expenditure Statement (IES)**

* 1. The Common Good Fund IES mirrors the Code-compliant local authority Comprehensive Income and Expenditure Statement (CIES) and is fundamental to understanding the financial performance of the Common Good in the year of account. Where the local authority manages several funds inherited from several burghs, the funds can be aggregated, for financial reporting purposes only, into one single statement. Supporting records should however be maintained and be capable of readily identifying individual funds. Common Good funds that remain registered as charities will require to adhere to the Charities SORP.

**Debits to the IES**

* 1. The nature of the Common Good Fund is that it is not possible to provide an exhaustive list of items which may be debited to the IES. Expenditure will generally be met from income credited to the Common Good in the year. Charges should however be consistent with applicable legislation and relevant case law. This is likely to require interpretation in some areas as to what is chargeable to the Common Good. This is a matter for each local authority to determine and is not set out in this guidance. However, LASAAC would anticipate that the following debits will be charged to and where appropriate, readily identifiable in the supporting records to the IES:
* distribution of grants to individuals and organisations;
* investment fees and expenses;
* depreciation of fixed assets;
* impairment of fixed assets;
* repair and maintenance of assets; and
* apportioned overhead costs reflecting the management of the fund by the local authority.

**Credits to the IES**

* 1. As is the case for debits to the IES, it is equally not possible to provide an exhaustive list of credits. LASAAC would anticipate that the following credits will, where appropriate, be identifiable in the supporting records to the IES:
* income from investments held including rent. Income should be recognised on a receivable basis;
* interest from investments in the local authority loans fund; and
* any contributions from the local authority in the year to enable repairs and maintenance of property or other forms of contribution.
	1. The following suggested IES consolidates a number of identified good practice disclosures from local authorities in Scotland. The suggested disclosure is the required minimum but does not preclude local authorities from providing additional information where relevant to the users of the financial statements.

**Example: Common Good Fund Income and Expenditure Statement**

|  |  |  |
| --- | --- | --- |
| **Income and Expenditure Statement for the year ending 31 March 20YY** | **20YY** | **20XX** |
| **£m**  | **£m** |
| Expenditure |   |   |
| Income |   |   |
| **Operating (Surplus) / Deficit for the year** |  |  |
| Other non-operating income / expenditure |  |  |
| **Total (Surplus) / Deficit for the year** |  |  |
| (Surplus) / Deficit brought forward |  |  |
| **Accumulated (Surplus) / Deficit** **at 31 March 20YY** |  |  |

**Common Good Balance Sheet**

* 1. The Common Good Balance Sheet as at 31 March will also be fundamental to enable an understanding of the financial position of the Common Good fund. The balance sheet should be simply stated but should include the assets and liabilities of the Common Good. No additional balance sheet disclosures are required.
	2. As a separate set of financial statements, it is appropriate practice that the Common Good Fund financial statements follow the same process of authorisation and approval to publish as the councils main financial statements. Section 3.8 of the Code covers the process and legislative basis for approval of the council’s accounts.

**Example: Common Good Balance Sheet**

|  |  |  |
| --- | --- | --- |
| **Balance Sheet as** **at 31 March 20YY** | **20YY** | **20XX** |
| **£m**  | **£m** |
| Property, Plant and Equipment |  |  |
| Investment Properties |   |   |
| Intangible Assets |   |   |
| Heritage Assets |   |   |
| Cash and Cash Equivalents |   |   |
| **Total Assets** |  |  |
| Current Liabilities |   |   |
| **Total Assets Less Liabilities** |   |   |
| Revaluation Reserve |   |   |
| Common Good Fund Balance |   |   |
| **Total Reserves** |  |  |

**Disclosure Notes**

* 1. The Common Good varies in materiality between local authorities. Other than the Narrative Reporting indicated at 2.11, the level of disclosure necessary is left therefore to the local requirements of each local authority. Further disclosures may be necessary to reflect local circumstances and to aid the user’s understanding of the council’s Common Good funds. Any disclosure should however be proportionate to the material value of the fund.
	2. There is no prescribed requirement to disclose the asset register as part of the financial statements, although some local authorities may wish to disclose information on assets held where this aids the user of the accounts (see paragraphs 2.20 to 2.29). Good practice would include a direct link to the Common Good Asset register on the Council’s website. This would be supplementary information that is not part of the financial statements.

**Asset Registers**

* 1. LASAAC’s 2007 guidance required an asset register for the Common Good to be introduced no later than 31 March 2009.
	2. The Community Empowerment (Scotland) Act 2015 (part 8) aims to increase transparency about the existence of Common Good assets and ensure that there is community involvement in decisions taken about their identification, use and disposal. The Act places new duties on the council in relation to Common Good property:
* Section 102 of the Act places a duty on the council to establish and maintain, after consultation, a register of property which is held by it as part of the common good.
* Section 104 imposes the requirement for public consultation before the disposal or change of use of Common Good property.
	1. In 2018, the Scottish Government [published guidance](https://www.gov.scot/publications/community-empowerment-common-good-property-guidance-local-authorities/documents/) on the procedures for establishing the register, and for subsequent consultations on the use or disposal of Common Good land.
	2. For some local authorities, the Common Good will include assets, which are, and have been, readily identifiable. Where identifiable, it is likely that these assets will have been properly accounted for and managed over time. However, previous assessments by LASAAC note that problems may have arisen over time as a likely consequence of:
* the historic nature of the Common Good which may encompass assets which are more than 100 years old;
* the compound effect of successive local government reorganisations; and
* no requirement for local authorities in Scotland to maintain formal asset registers until 1994.
	1. Asset registers are essentially records of all fixed assets used. LASAAC supports CIPFA’s view that:

*“The development and maintenance of comprehensive asset registers is best professional practice across the public service. It is a mechanism to support stewardship and control as well as a means of achieving the efficient and effective management of resources.”*

* 1. It would appear reasonable that the minimum, but proportionate, level of stewardship of the Common Good should be consistent with the local authority itself. Local authorities should therefore take such reasonable steps as necessary to ensure that Common Good asset registers support fixed assets recognised in the Common Good balance sheet and also support the 2018 Scottish Government guidance on property registers.
	2. To ensure the integrity of items included within the asset register, the title of each item identified as belonging to the Common Good should be demonstrable. This requirement is consistent with the terms of the letter sent in March 2007, by the Head of Best Value and Performance at the Scottish Government. That letter drew attention to the importance of robust asset management. In particular, the letter stated that:

*“For councils to fully maximise the potential of their assets, they must hold accurate records of the assets they are responsible for. This would include those assets held for the Common Good.”*

**Transfer, Disposal and Change of Use of Common Good Land and Property**

* 1. Part 5 of the Community Empowerment (Scotland) Act 2015 introduces a right for community bodies to make requests to all local authorities for any land or buildings they feel they could make better use of. They can request ownership, lease or other rights as they wish.
	2. The Scottish Government has [published guidance](https://www.gov.scot/publications/asset-transfer-under-community-empowerment-scotland-act-2015-guidance-relevant-9781786527493/pages/1/) on the process and procedures for local authorities to acknowledge requests and the process to be followed for the valuation, transfer and disposal. Authorities have an obligation to have regard to this guidance when considering a transfer of Common Good assets. The guidance also covers the requirements of a range of supporting regulations, which cover more detailed aspects of the procedures to be followed.
	3. In line with paragraph 2.12 above, where material LASAAC recommends that authorities disclose their policy on how changes in the use of assets and the register are dealt with in-year.
	4. Transfers of Common Good assets can also be completed through lease and lease type arrangements or more informal arrangements that convey the right to use the asset. This may include use by the council itself. Preparers of the Common Good Fund financial statements should also consider the accounting for such arrangements. The Code Section 4.2 deals with leases and lease type arrangements.

**Group Accounts**

* 1. The Code requires that authorities in Scotland should consider the consolidation of Common Good funds within group accounts unless their interest is considered not material. Authorities should refer to Chapter 9 of the Code for details.

**Audit**

* 1. The audit of Common Good statements is undertaken by the appointed auditor to the host local authority as appointed by the Accounts Commission under S96 of the Local Government (Scotland) Act 1973. There is no requirement for a separate audit certificate on the Common Good statements and the Common Good is therefore audited as part of the audit of the council and not as if it was a separate entity.
1. **Financial Management of Common Good Funds**
	1. The Common Good is administered by local authorities in Scotland. It is vested in the local authority. There is no equivalent to the Common Good in any other part of the UK. The Common Good Fund is both distinct and different from other funds held by the local authority.
	2. Common Good funds may be applied for any lawful purpose for the benefit of the inhabitants. The object fostered by the use of the funds should be within the scope of municipal administration but need not be an object authorised by statute.

*e.g. use of the Common Good by Glasgow Corporation to pay telephone accounts of councillors incurred in the performance of their official duties was upheld by the Court of Session (Glasgow Corporation v Secretary of State for Scotland (1966) SLT 183.*

**Common Good Revenues**

* 1. The expenditure of the Common Good is a matter for the discretion of the local authority, provided that it is an honest exercise of discretion and that the projected use is not contrary to policy or intended purpose. (Graham v Glasgow Corporation (1936) SLT 145).
	2. Therefore expenditure which cannot be met from council taxation may be defrayed out of Common Good, and councils may apply part of the revenue from the Common Good in relief of rates on Common Good property.
	3. Expenditure charged to the Common Good must be for purposes permitted by law. For example, the use of Common Good to pay the expenses of those candidates for election to the council who favoured the extension of the city boundaries was held to be illegal and against public policy (Kemp v Glasgow Corporation (1920) SC(HL) 73).

**Powers to Borrow**

* 1. Loans may be raised by a council on the security of its Common Good, and such loans are not subject to the statutory restrictions that apply to the normal borrowing by the council, provided that the security for the loans is confined to the Common Good, and no security is conferred over the council tax and general funds of the council.
	2. It was previously possible for money to be borrowed for Common Good purposes under a statutory borrowing power to be secured upon the whole fund ‘rates’ and revenues of the authority but this no longer applies (section 8(3), schedule 3 to the Local Government (Scotland) Act 1975), apart from the power conferred under private legislation and which can continue under section 225(6) of the Local Government (Scotland) Act 1973.
	3. It would follow therefore, that money borrowed for Common Good purposes, other than under a statutory borrowing power (which can be conferred by private legislation only since 1975) can only be secured on the Common Good fund of the council concerned and not borrowed on the security of the whole funds rates and revenues of the local authority through the loans fund.

**The Common Good and the Local Authority Loans Fund**

* 1. In July 2016, the Scottish Government issued the Local Authority (Capital Financing and Accounting) (Scotland) Regulations 2016. Paragraph 9 of the 2016 regulations specify that borrowing money by a local authority for the purposes of the Common Good fund is not to be treated as borrowing by the authority.
	2. This however does not preclude the investment of Common Good monies in a council loans fund but, rather precludes advances being made from the loans fund to the Common Good fund.
1. **Common Good Funds and Charitable Status**
	1. LASAAC is aware that some Common Good funds have previously been registered as charities and have formally appeared on the charity register of the Office of the Scottish Charity Regulator (OSCR). At the time of completing the previous guidance in 2007, LASAAC understood that, over time, OSCR would review the charitable status of all bodies currently on the Scottish register.
	2. Currently, a number of local authority-controlled Common Good funds have been de-registered by OSCR on the basis that they fail to meet the tests to be registered as a charitable body. It is understood that all remaining local authority Common Good Funds will be de-registered in the near future.
	3. Section 19 of the Charities and Trustees Investment Act 2005 effectively ring-fences the charitable assets at the point at which de-registration occurs. In the recent Common Good de-registrations, OSCR has determined that the Fund is not a ‘body’ and concluded that section 19 of the 2005 Act did not apply. The deregistered Common Good funds are no longer under a duty to account to OSCR, and OSCR will not monitor its use of the assets after removal from the Register.
	4. LASAAC supports the view that this guidance should therefore be applied by all Common Good funds under local authority control in Scotland irrespective of status and does not in any way remove the responsibility to adhere to the requirements under any other primary legislation or SORP.

**Appendix 1**

1. **General background and interest in Common Good funds**
2. In local government in Scotland, the Common Good is a traditional and ongoing topic of interest and debate. That interest is evident amongst users of local authority services, stakeholders and a varied range of other commentators. The level of interest, in many cases, extends beyond the financial value of the funds themselves. This is reflective of both the wider interest and wider perspective generally that is applied by stakeholders to local authority finance. The interest itself extends beyond the single concept of materiality.
3. On the stewardship of the Common Good, that wider interest almost certainly includes a need for transparent and consistent reporting on the use of fund monies. This is clearly consistent with the objective of the Code. Despite this, the Code is largely silent on this important area of Scottish public sector finance.
4. More recently, interest in the Common Good has been highlighted through the Community Empowerment (Scotland) Act 2015. The Act seeks to increase transparency about the existence of Common Good assets and to ensure there is community involvement in decisions taken about their identification, use and disposal. The Act also places new duties on local authorities in relation to Common Good assets.
5. LASAAC has always acknowledged that there was a requirement to modernise accounting for the Common Good and, as far as possible, to ensure consistency in the manner in which the Common Good is accounted for and reported by local authorities in Scotland. While accounting is the key consideration for LASAAC and is the main concern of this document, the Committee is aware of the wider interest in this publication given the profile of the Common Good. It is for that reason that the Committee is completing an update to its existing guidance.
6. This guidance builds upon the 2007 guidance and is consistent with proper accounting practice required by the Code of Practice on Local Authority Accounting. The guidance is applicable to all bodies in Scotland to which the Code currently applies and should be considered mandatory for all Scottish local authorities.
7. Further background and relevant case law can be found in the report [Common Good Land in Scotland, a Review and Critique](http://www.andywightman.com/docs/commongood_v3.pdf) by Andy Wightman and James Perman and published as part of the Caledonia Centre for Social Development – Commonweal Working Paper No. 5.

**2. A Brief Historical Background**

* 1. The earliest legislation which reflected the existence of the Common Good can be traced back to the Common Good Act of 1491. Some 300 years later, at the turn of the 18th century, the burghs of Scotland for the most part met expenses from the revenues of their properties. The cost of public lamps, of cleansing and repairing streets, of interest on loans, of the Minister’s stipend, and the cost of entertaining the council on occasion of the King’s birthday, were met from rents and feu-duties on the lands given to the burgh by the Crown in medieval times.
	2. The Common Good (as these revenues were, and still are termed) is therefore of great antiquity. The origin was either in a Crown grant of lands or of petty customs of the burgh. It denoted all property of a burgh not acquired under statutory powers or held under special trusts.
	3. The Common Good ultimately became only a useful adjunct to the principal revenues from statutory rates and was reserved for purposes which promoted the general good of the inhabitants or dignity of the burgh. For similar purposes, counties and burghs without a Common Good were empowered under the Local Government (Scotland) Act 1947 to set up fee funds from certain fees and commissions.

**3. Local Government Reorganisation – Impact on the Common Good**

3.1 Section 15 of the Local Government etc. (Scotland) Act 1994 provided for transfer to the new unitary authorities of all Common Good property stating that, in administering such property, any authority to which it is transferred shall:

* 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; and
* in the case of the councils for Aberdeen, Dundee, Edinburgh and Glasgow, have regard to the interests of all the inhabitants of their areas
	1. Section 8 of the Local Government (Transitional Financial Provisions) (Scotland) Order 1996, SI No 682, 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 at 15 May 1975. Section 15 of the Local Government etc. (Scotland) Act 1994 is applicable to all Common Good assets.

**Appendix 2**

1. **Trust Funds**
	1. Similar to Common Good funds, the legislative background contained in the Local Government (Scotland) Act 1973, section 93 (2)(a) effectively ring-fences trust funds of a local authority. As set out in para 2.2 above, this legislation has been interpreted in accounting terms as the requirement to prepare and disclose a separate financial statements and disclosure requirements for Trust Funds.
	2. In the absence of prescriptive accounting requirements, this guidance recognises the legislative distinction of trust funds as managed funds, the stewardship of which requires disclosure within the local authority’s financial statements.
	3. The disclosures for trust funds required by the Code are set out in paragraph 3.4.4.1 (11) and note the following:

*Details of the nature and amount of trust funds where the authority acts as the sole trustee. For other trust funds and other third-party funds administered by the authority, a statement providing an indication of the overall nature and amounts administered by the authority. Where land or non-financial assets are managed, occupied or held by the local authority which are impressed with charitable trusts, the nature of those holdings.*

* 1. Local authorities may act either in their own right or with others as the trustees of funds. These funds may have been established either for charitable or non-charitable purposes. The intention of these disclosures is to demonstrate the authority’s stewardship and trustee responsibilities.

* 1. Since those responsibilities are more onerous where the authority acts alone, in this circumstance the Code calls for separate disclosure. When accounting for and reporting trust funds, local authorities should ensure that they meet the requirements of the relevant charities’ legislation and where appropriate, the Charities SORP.
	2. The Code does not prescribe in detail the information to be provided. However, while not mandatory, a reasonable interpretation of the phrase ‘nature and amount of trust funds’ might include:
* a description of the fund, setting out its corporate status (if relevant)
* the purpose of each fund
* the value of the underlying assets
* the extent of any liabilities
* an indication of gross income and expenditure.
	1. Further details and Illustrative disclosure examples for trust funds can be found in Module 3 of the Code Guidance Notes available from CIPFA.