

Common Good Land in Scotland

A Review and Critique



Andy Wightman & James Perman

Caledonia Centre for Social Development
Commonweal Working Paper No. 5

Until the Burgh Reform Act of 1833 the landowners and the commercial bourgeois class controlled all burghal administration of the common lands, and controlled it in such a way that vast areas of common lands were quietly appropriated, trust funds wholly disappeared, and to such a length did the plunder and the corruption develop, that some ancient burghs with valuable patrimonies went bankrupt, some disappeared altogether from the map of Scotland, some had their charters confiscated, and those which survived to the middle of the nineteenth century were left mere miserable starved caricatures of their former greatness, their Common Good funds gone, their lands fenced in private ownership, and their treasurers faced often with crushing debts.

Tom Johnston, 1920. A History of the Working Classes in Scotland. pp.163-164.

No doubt a fiduciary element arises in the administration of the common good, but the common good itself is the property of the citizens and the fiduciary element comes in because it is the duty of their elected representatives to administer it not for themselves but for their constituents.

Lord Justice-Clerk Thomson in McDougal's Trustees v, Lord Advocate 1952 SC 260 at p.266.

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Clackmannanshire Council	North Lanarkshire Council
Dumfries and Galloway Council	Orkney Islands Council
Dundee City Council	Perth and Kinross Council
East Ayrshire Council	Renfrewshire Council
East Dunbartonshire Council	Scottish Borders Council
East Lothian Council	Shetland Islands Council
East Renfrewshire Council	South Ayrshire Council
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Preface

This report documents the findings from an initial enquiry including a survey into the state of common good land across Scotland. It is being published as Paper 5 Caledonia's series of Commonweal Working Papers on common land and property in Scotland.

The report has been researched and written at the authors' own expense with no external funding and it has therefore not been possible to follow-up on the many lines of enquiry which have presented themselves or to provide details of the growing number of interesting cases and issues uncovered in the course of this research.

We will publish further reports on the topic as more information comes to light and as the debate moves on. We also hope to inspire a more coherent and strategic response to the issues raised in this report by other interested citizens and organisations. In addition Caledonia hopes to be able to secure some funding to enable this work to be taken forward.

Meanwhile we would welcome contact with individuals, community groups and other organisations across Scotland who would be interested in furthering this enquiry or who have any comments or further information to provide in response to the contents of this report.

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Commonweal

This paper is the fifth in a series published by *The Commonweal of Scotland*, a project initiated by the Caledonia Centre for Social Development.

The main purposes of the project are to:

- Begin the systematic collection of knowledge about a significant part of Scotland's land use heritage and an important asset of households and the social economy, and to make it available to a wide range of civil society organisations, policy makers and other interested parties.
- Contribute to the growing international interest in common property rights and the need to uphold these in the face of attempts to appropriate them by more powerful local and/or external interests.
- Contribute to discussions about effective ways of asserting common property rights on behalf of disadvantaged and other less powerful groups who are threatened with their loss.

Common good assets are the heritable (land and buildings) and moveable (paintings, furniture, chains of office etc.) property that belonged to the Burghs of Scotland. Under local government reform in 1975 Burghs and Town Councils were abolished and replaced by District and Regional Councils. In 1996 further reform introduced unitary authorities. Common good assets were subsumed within these local government reforms and placed under the stewardship of these new bodies.

This property and the funds associated with it are an important part of the cultural heritage of many towns across Scotland and provide significant resources for the economic, social and environmental development of these communities. They form part of a spectrum of common property resources which includes, among others, the Crown Estate (seabed and foreshore), commonies, community owned property, land held in trust for the nation, drovers' stances, village greens and the cultural artefacts associated with burgh history.

In many cases, however, the property has been lost, corruptly and illegally alienated, neglected and forgotten about. What remains in many cases is poorly documented with many Local Authorities not knowing what is common good and what is not. The funds (if they exist) are therefore almost invariably being deprived of proper stewardship and thus their full income generating potential.

The history of the common good over the centuries has been a history of wise stewardship followed by corruption, nepotism, cronyism and criminality. Today the situation is characterised by ignorance, bad record-keeping, impoverished funds, confusion and a continuing dose of cronyism, nepotism and evidence of occasional criminality.

This report aims to begin a process of correcting this situation by providing communities with the stimulus to recover their rightful inheritance and to steward these assets solely in the interest of their citizens both now and in the future.

Common Good funds represent both a failure of stewardship over many years and a huge opportunity to promote wealth creation and the welfare of communities in the future. To overcome current weaknesses and secure public benefits the report recommends: -

- a public register of common good assets;
- a review of the management and public reporting of common good assets;
- an obligation on local authorities to pay a market rent for the occupation of common good property;
- a set of new accounting standards for common good funds;
- a statutory right for communities to take back title and ownership of common good funds, and
- an independent review of all local authority property sales.

To implement these recommendations we advocate a new Common Good Fund (Scotland) Act to replace the Common Good Act 1491 which, rather interestingly, remains in force today!

Introduction

Common Good Funds are the assets and income of the former burghs of Scotland (see Annex I for a full list of such burghs). They represent a substantial portfolio of land, property and investments and by law continue to exist for the common good of the inhabitants of the former burghs.

The state of knowledge that existed prior to this research was thin and was restricted mainly to local historians and activists concerned with their local situation. However, in recent years, concerns about common good assets have become increasingly public. Now is a good time to review the topic and establish what common good assets are, their status and extent, how they are managed, who benefits, and what needs to change to secure their future and the prosperity of the communities whose inheritance they are.

This report aims to provide a preliminary answer to those questions and to pose further questions about how such property and assets should be managed in future. The report will be followed up by further reports as more information comes to light.

The review was initiated against the backdrop of the Land Reform (Scotland) Act 2003 which has provided opportunities for communities in rural Scotland to acquire land. This was introduced without any comprehensive review of existing forms of common ownership of land including commonties and common good land. This review is an attempt to begin to redress that imbalance and to focus on the extent to which communities in towns and cities across Scotland already own land and property. The review is also relevant in the context of the 2007 local government elections which will be held under a proportional voting system. We hope that this election will provide the opportunity for a more open, transparent and progressive attitude to the stewardship of the common good.

Also informing the enquiry was the wider policy context in which communities are being encouraged to take more responsibility for local affairs and to undertake a variety of development initiatives aimed at social, economic and environmental regeneration. Before new programmes and funds are made available to acquire community assets, however, it is worth noting that communities the length and breadth of Scotland already own substantial assets in the form of common good land. In many cases, however, they are simply not aware of it.

The report aims to answer the following questions.

- What is the state of knowledge on the current extent of common good land?
- How is it being managed and accounted for?
- What are the wider policy issues around common good assets?
- How might the stewardship of common good assets be reformed?

The Common Good

Most towns across Scotland, being former burghs, have a Common Good Fund. A full list of Common Good Funds and balances is given in Annex II.

Whilst the existence of such funds is relatively common knowledge across Scotland, the existence of the land and property - the burgh commons and common good land - that forms the basis for the income of the fund is less well understood by the public and is evidently a source of some confusion and complexity for local authorities also.

We should thus start with some history.

Robin Callander describes the common property of burghs as follows,

the property rights and privileges of use held by the burgh or its feuars were the burgh commons. These did not represent a single type of common land, but might encompass the full range of Scottish commons: commonnties, common mosses, runrig lands and common hill land, greens and loans. These areas and other rights, like fishing privileges, were not always held exclusively by the burgh, but might also be shared in common with the owners of land outside the burgh's boundaries. (1)

Common good land is land held for the common good of all the residents of that particular burgh and has its origins in the original grants of land to the Royal Burghs of Scotland. This land, held by feudal charter, was intended to provide an income for the burgh and to provide material products for the inhabitants. Such grants were often extensive as Tom Johnston vividly illustrated in his *A History of the Working Classes in Scotland*,

The Kings, therefore, granted wide privileges and vast territorial estates – estates “which were truly in the nature of trust estates and strictly inalienable” – for the common good use of their chartered burghs. In early times, so vast were these Royal Burgh territories that their boundaries often met! Even in 1617 the jurisdiction of the Magistrates of Rutherglen extended from Polmadie on the south side of the River Clyde to Carron; the entire parish of Ayr at one time belonged to the Burgh of Ayr.

Even the towns which did not hold their charters from the Crown, but from the neighbouring baron, possessed wide territories of commonty; and adding together the common lands of the Royal Burghs, the common lands of the Burghs which held their foundation rights from private individuals, the extensive commons of the villages and the hamlets, the common pasturages and grazings, and the commons attaching to run-rig tenancies, we shall be rather under than over estimating the common acreage in the latter part of the sixteenth century, at fully one-half of the entire area of Scotland. (2)

As a Parliamentary Committee reported in 1819 in relation to Aberdeen,

With respect to the property of the burgh, which is denominated “Common Good”, it appears that the city formerly possessed lands, which extended many miles in circuit round Aberdeen, granted by the kings of Scotland for the use of the burgesses of the town. (3)

But by the early 19th century the once extensive lands had been pillaged, alienated and lost due to municipal corruption. A major Parliamentary investigation - *The Municipal*

Corporations in Scotland Inquiry of 1835 - recounts that,

Banff obtained a charter, giving power to the Corporation to feu the property of the burgh to burgesses and their heirs male, under condition of a forfeiture, if alienated to any other than a resident burgess. The condition having never been observed, or soon disregarded, the greater part of the property was acquired by the neighbouring noble families of Findlater, Fife and Banff.

The burgh of Renfrew made four different sales to the provost; and, in every instance, the proposal for the sale originated with that magistrate himself, and was sanctioned by his official signature. In one instance, it is expressly stated in the minutes, that the only reason for the sale was that it would be beneficial to the provost. (4)

The Municipal Corporations Inquiry was held in response to mounting concerns over municipal corruption and the loss of burgh property. The Commissioners appointed to the inquiry reported in 1835 and delivered a damning indictment of municipal nepotism and corruption. Writing of the property conferred on or entrusted to the Royal Burghs of Scotland, the authors wrote,

In regard to the actual state of the real property thus conferred on or entrusted to the royal burghs of Scotland..... With comparatively few exceptions, its administration has been most unfortunate and even ruinous; and what was originally bestowed by the Crown, for public purposes, and inalienably devoted to the support of municipal establishments has, in the greater number of cases, been lost by management the most reckless and short-sighted. Prior to the beginning of the sixteenth century, there is no trace of any dilapidation of the property of the burghs. If waste of any kind existed, it must have been confined to the annual produce of the common property; and the property itself would appear to have been sufficiently protected by the inalienable quality of the original gift. (5)

The scandal that the Commissioners exposed stemmed in large part from an Act of the Scots Parliament in 1469 by which the popular election of magistrates was abandoned and a system was introduced whereby the magistrates themselves appointed their own successors. This system continued until the Burgh Reform Act of 1833 and allowed wealthy merchants and landowners to dominate municipal government with the same Magistrates holding power for decades and with sons following fathers into office. It was little wonder that opportunities to make money from the patrimony of the burgh were seized upon. As Johnston writes,

Previous to the year 1469 the provosts and bailies of the Royal Burghs were popularly elected, but in that year, owing to some alleged great clamour of 'simpil personis', against magistrates who held office for longer than one year, Parliament chose to silence the 'sinful personis' by carefully enacting that the old councils had themselves to elect their successors; and both old and new councils, sitting together, were to choose the officials for the ensuing year. Each craft in the burgh, it was true, was entitled to send one representative to the meeting which chose the officials, but no extraordinary stretch of the imagination is required to grasp the elusory nature of that concession to democracy. By this Act of 1469 popular election had been suppressed; and from that year until the Burgh Reform Act of 1833, the landowners and the commercial bourgeois class controlled all burghal administration of the common lands, and controlled it in such a way that vast areas of common lands were quietly appropriated, trust funds wholly disappeared, and to

such a length did the plunder and the corruption develop, that some ancient burghs with valuable patrimonies went bankrupt, some disappeared altogether from the map of Scotland, some had their charters confiscated, and those which survived to the middle of the nineteenth century were left mere miserable starved caricatures of their former greatness, their Common Good funds gone, their lands fenced in private ownership, and their treasurers faced often with crushing debts. (6)

The ruin was hastened by Acts in the 16th century allowing Burghs to feu property. Until around the end of the 15th century feuing was illegal and most of the common good was occupied by tenants under short leases. Thus up until this point, the burgh property was more or less protected from the depredations of the Magistrates and others.

In the beginning of the 16th century, however, feuing increased. This provided burghs with much larger returns but failed to appreciate that of course feu duty is fixed and declines to a nominal and illusory amount compared with rents which can be adjusted to keep pace with rising values. Edinburgh was granted a charter in 1508 that gave special power to feu common good land. Aberdeen was granted powers to feu in 1551. Before this time even 19 year leases of town property were forbidden by the Courts. Other burghs did not enjoy such powers but nevertheless joined in and corruption became endemic. As Johnston again recounts,

Inverness, in 1591 owned the “lands of Drakes and forest of the same: Markhinch, with common pasturage, called the Burgh haugh, Woodpark, Burnhills, Claypots, Milnfield, the Carse, Corn Lands, the Common Muir, the Water of Ness both sides of Clachnahagyag to the sea with fishings”; but most part of these soil rights had been alienated by methods which the Commissioners reported as “highly censurable”. In 1617 we find the then Lord Lovat driving the townsmen of Inverness off their peat mosses and with a petty taste in invective, describing the magistrates as “lownes, lowsie knaves, villanes and beboshed doggis.” Many of the lands were privately acquired by the magistrates; in 1783 and in 1785 the provost secured for himself some portions of the Town common, and in 1797 one of the Councillors bought land which, with but slight improvement, returned him yearly almost the capital sum he had expended at purchase from the Council. (7)

In an effort to stem the abuses, inquiries had been held in 1682 and 1693 but to no avail (8). Even burgesses failed in their legal actions in part because the Court of Exchequer to whom complaints could be made observed English forms of judicial procedure and cases were thus lost on technicalities (9).

Thus the commons disappeared as Johnston again so wonderfully observed,

Wick had lost in the law courts its limited right to commonry over the Hill of Wick, and owned no property; Abernethy owned nothing, nor did Alloa. Bathgate was the proud possessor of the site of a fountain and a right of servitude over 42 acres of moorland. Beith had no local government of any kind. Bo’ness owned nothing; Castle-Douglas owned a shop; Coldstream was stripped bare, not even possessing “rights in its street dung”; Crieff had two fields; Dalkeith, nothing; Dunkeld, nothing; and Dunoon, nothing. (10)

Nevertheless, despite such losses, Johnston, in his masterful survey of the evidence exudes a little hope,

As late as 1800 there were great common properties extant; many burghs, towns and villages owned lands and mosses; Forres engaged in municipal timber-growing; Fortrose owned claypits; Glasgow owned quarries and coalfields; Hamilton owned a coal pit; Irvine had mills, farms and a loom shop; Kirkwall owned farms and a town hall; Lanark had a mill and an inn; Lochmaben had a farm; Musselburgh had five mills, a brick and tile work, a quarry, a town hall, a steel yard and shares in a race stand; North Berwick owned a bakehouse; Paisley had an inn, house property, coal rees, a dyework, a foundry and a bowling green; Peebles had a corn, flour and barley mill, a waulk mill with house and machinery, a farm and shares in an inn and in a gas company; Earlsferry, a municipal golf course; Perth an oil mill, a sawmill, granaries, coal and wood yards; Peterhead, a shipbuilding yard; Wigtown had ballrooms; Pollockshaws had house property and an inn. (11)

In the Local Reports of the Municipal Corporations Inquiry, there is useful evidence of what remained. The North Berwick report, for example, states that,

The present property of the burgh of North Berwick consists of the town's common, the town-house, the harbour, with booms, steelyard, and coal weights, and the two market stalls, bakehouse, and slaughterhouse; the school-house; a small croft; one half of the gallery of the west church. (12)

Following the 1833 Burgh Reform Act and the Municipal Corporations Report, the steadily growing electoral franchise brought new blood into municipal life and Victorian philanthropy gifted new buildings, parks and halls. New areas of land and property came into the ownership of Town Councils to be managed for the public good and Councils began to take their responsibilities more seriously.

There is little research on the fate of the common good during the 20th century but in May 1975 radical changes took place with the abolition of the Town Councils, of Large and Small Burghs and their replacement with Districts and Regions. Further reform took place in 1996 with the abolition of these two tiers of government and their replacement with one tier of Unitary Authorities which today form local government administration in Scotland.

Thus there remains something of a gaping hole in our understanding of how the common good fared over the past 200 years although some Councils themselves undertook detailed study of the topic (13). Detailed research is clearly possible since by the mid 19th century we are well into the era of modern records and it is a relatively straightforward, if time consuming, task to determine the fate of common good assets. What is clear from even a cursory examination of the evidence is that the depredations did continue.

One place where the memory is kept alive is in the Borders where the Common Riding ceremonies that take place each summer have their origins in the riding of the marches of the burgh commons, an activity that was necessary to prevent encroachment by neighbouring, powerful landowners. As Kenneth Bogle writes,

Burghs across Scotland once rode their marches as a matter of course. In the sixteenth century, ridings took place in Edinburgh, Glasgow, Aberdeen, Stirling and Dundee, and also in smaller towns such as Haddington, Rutherglen, Arbroath and Inverness. Generally, these ridings survived until the eighteenth century when they gradually petered out. (14)

The Borders situation is a good example of how right across Scotland, the memory of common good land is still kept alive in traditions, customs and, increasingly, in local historical research.

So what is left today?

Current Situation

Introduction

Today, title to common good land is held by local authorities as the statutory successors to the Town Councils of the burghs which were abolished in 1975 under the Local Government (Scotland) Act 1973. Under that Act, and the later 1996 Act, local authorities have certain duties with regard to common good land (see Box - Local Government Acts of 1973 & 1996). Later in this report we will discuss the implications of this but for the moment it is sufficient to say that common good land enjoys a certain status and stands apart from other property owned by local authorities due to its historical character and the particular purpose for which the land was originally granted to the burgh council.

The 1973 Act made provision for the transfer of common good assets but as the burghs slipped into history and with further local government reorganisation in 1996, the understanding and appreciation of common good assets that had been reasonably well understood prior to 1975 rapidly disappeared as institutional memory faded and personnel and administrative systems changed.

Some Town Councils took the opportunity in 1975 to pass the town's common property into new Trusts to avoid them being taken over by the new authorities. Auchtermuchty and North Berwick were among these and their commons survive independent of local authorities. St Andrews managed to arrange for all the golf links in St Andrews which were part of their common lands to be transferred into the St Andrews Links Trust by an Act of Parliament.

Local Government Acts of 1973 & 1996

The Local Government (Scotland) Act 1973 provided for the transfer of the assets of Scotland's common good assets to the new District Councils. Section 222(2) states that,

The Secretary of State shall by order provide that all property held as part of the common good by an existing local authority on 15th May 1975 shall on 16th May 1975 be transferred to and vest in such islands or district council as may be specified in or determined under the order, and those councils, other than the district councils of Aberdeen, Dundee, Edinburgh and Glasgow, shall, in administering that property, have regard to the interests of the inhabitants of the area to which the common good formerly related.

This basic position was reinforced and, in effect, continued by the Local Government (Scotland) Act etc. 1994. Chapter 3 Section 15(4) states that,

(4) The power to transfer property conferred by this section includes power to transfer property which is held by an existing local authority as part of the common good, but such property may not be transferred to a residuary body and, in administering such property, any authority to which it is transferred shall -

(a) 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 16th May 1975; and

(b) in the case of the councils for Aberdeen, Dundee, Edinburgh and Glasgow, have regard to the interests of all the inhabitants of their areas.

The current situation, however, remains obscure. The topic is not widely appreciated or understood and whilst some local authorities have a detailed understanding, doubt and ignorance remain widespread.

The situation is further confused by the complex legal situation surrounding common good. Indeed the only time most members of the public are likely to have been made aware of common good property is when a dispute has arisen and court proceedings have begun as happened in Port Seton (1997), Musselburgh (1982) and Burntisland (1993) and as is currently taking place in, for example, Musselburgh and Kinross over the proposed sale of common good assets.

Before proceeding further therefore it is worth pausing to say something about the law in connection with the common good.

The Law

In a landmark legal case in 1944, Lord Cooper, in his Opinion observed that,

The different categories of property which a chartered burgh may competently hold, and the distinguishing characteristics of the special category known as common good, can hardly be said to have been anywhere defined with mathematical precision.

Lord Justice-Clerk, Lord Cooper in Magistrates of Banff v Ruthin Castle Ltd. 1944 SC 36. at p.43.

Lord Justice-Clerk, Lord Cooper, was correct and the question of what assets form part of the common good has been the subject of a number of court cases. But thankfully, that lack of mathematical precision was substantially rectified and in fact settled in the case in which the Lord Justice-Clerk was involved - a case that concerned the status of Duff House and parkland in Banff and which to this day is cited as the authoritative opinion on what does and what does not fall into that special category known as common good.

In the same case, Lord Wark made the following observation in his Opinion,

I do not think it necessary to enter into the history and meaning of the expression common good, for two reasons, first, that these have been discussed at length by Lord Mackay, with whose observations I entirely agree, and, second, that there was in the end no dispute between the parties that all property of a royal burgh or a burgh of barony not acquired under statutory powers or held under special trusts forms part of the common good.

Lord Mackay's observations had made it plain that burgh property formed, unless demonstrated otherwise, part of the common good of the burgh,

Burghs proper are the creature of the sovereign right over the land of Scotland. They are endowed from their origin with certain gifts of land or, it may be, other capital endowments.....The property rights of all sorts are common good.

It must, lastly, be said that the ancient authorities make it clear that 'accessions' to the original property endowments, whether emanating from the sovereign or from the wealthy landowners who set up the burgh of barony in their lands or other endowments, were contemplated. It is

matter of the clearest assumption in decision after decision that such 'accessions' are contemplated, and when accepted fall into and form part of the common good.

Lord Mackay in Magistrates of Banff v Ruthin Castle Ltd. 1944 SC 36. at p.49.

In a recent Court of Session appeal case Lord Drummond Young cited Wark with approval and observed that,

It (common good property) was thus the ordinary property of a burgh, held for the general purposes of the community. It is owned by the community, and the town council or other local authority is regarded in law as simply the manager of the property, as representing the community. Typically, the common good included public buildings such as churches and the municipal chambers, the streets of the burgh, public open spaces and markets. It might also include lands, houses and other forms of property. In a coastal burgh, the harbour would typically form part of the common good.

Lord Drummond Young in Andrew Wilson and Others v Inverclyde Council 2003 at [4].

The law, therefore, has made plain that the totality - everything - that the former burghs owned in 1975 was common good unless it had been acquired under statutory powers or held in a special trust. Thus, despite what some may argue, the property held under common good across Scotland is extensive.

Common Good property remains an important legal entity. The law relating to it will soon become better understood thanks to a book being written on the topic (15) and its continuing importance is highlighted by the fact that legal proceedings continue to be pursued across the country. These range from local disputes about the status, financing or alienation of property to Acts of Parliament required in order to transfer title to common good land. A good example of the latter was the National Galleries of Scotland Act 2003 which was needed in order to allow for the construction of the new Playfair Gallery in East Princes Street Gardens.

Common Good Today

Across Scotland, growing numbers of communities are involved in campaigns and disputes about common good land. Some cases have been rumbling on and off for some years and others are of more recent origin. They are so numerous and detailed that this report cannot provide a proper account of their nature, diversity and history but they include: -

- in Ayr, a conflict over proposals to build a new school on common good land;
- in Selkirk, a dispute with the Crown Estate over the ownership of salmon fishings on the Ettrick;
- in Musselburgh, a campaign against plans to redevelop the Musselburgh Racecourse and a petition in the Court of Session from East Lothian Council to sell part of the common good assets to fund the development;
- in Peebles, a building company that built houses by mistake on common good land;

-
- in Kinross, a fight by the Community Council against plans by Perth and Kinross Council to sell the Town Hall and Library;
 - in Largs, an ongoing struggle to obtain information, clarity and proper accounting of common good assets (see Annex VI for very full account); and
 - in Banff and Macduff, controversy over the sale of common good land to Tesco and the relocation of sports facilities in the grounds of Duff House.

Such cases are receiving more publicity thanks to greater transparency in local government (through the Internet, open government initiatives, audit and Freedom of Information), a heightened awareness of land and property (land reform), and an improved democratic climate introduced by Scottish Parliament. Increased civic activism is also playing a role in bringing such cases, some of which date back decades, to the attention the wider public. Until now, however, there has been little by way of national awareness of the topic. This, however, may be about to change.

For example, an Audit Scotland report into the stewardship of the Common Good Fund in Scottish Borders Council provided evidence of serious administrative failings (see Annex V for press report) and in August 2005, a citizen of Peebles launched a Parliamentary Petition on common good assets in the Scottish Parliament (16).

Nevertheless, there remains a vast lack of awareness, uncertainty, misinformation and wilful ignorance about the topic. This review is intended to help bring the topic to the fore and encourage a more active and informed debate on the matter.

In the current climate a number of themes emerge:

- People have forgotten the legacy of Town Councils and of common good assets.
- Communities are frequently unhappy with the lack of transparency in dealings over common good land.
- Two local government reorganisations (1974 & 1996) have meant that many communities are now more distant both physically and politically from local government. What was at one time a strong sense of local identity has been diluted and political authority now rests at some distance from many towns. Where there had been perhaps a dozen or more town councillors, there remained, after 1975, perhaps only one or two representing the whole town.
- As a further consequence of local government reorganisation, records have been poorly kept, institutional memory of life before 1975 has been lost and remarkably, many local authorities still do not know what land is held under common good and are still relying on Charters that are hundreds of years old.
- This situation will be exacerbated by the new electoral system being introduced in 2007 whereby wards will be larger multi-member wards elected under a system of proportional representation and councillors will be further distanced from the affairs of specific burghs.

It is a feature of common good that little by way of national aggregate information is available. A series of Written Parliamentary questions in Parliament illustrated the fact admirably (see Box - *Parliamentary Questions and Answers*).

Against this background we conducted a survey in Spring and Summer 2005 to try and ascertain the current status and extent of common good assets across Scotland. What did we find out?

Parliamentary Questions and Answers

S1W-25752 - Christine Grahame (South of Scotland) (SNP) (Date Lodged 9 May 2002):
To ask the Scottish Executive what rules and regulations apply to the operation of Common Good Funds held by local authorities.

Answered by Peter Peacock (27 May 2002): **Local authorities are bound by section 75, 93 and 94 of the Local Government (Scotland) Act 1973 in the operation of Common Good Funds. Particular funds may also have their own restrictions.**

S1W-25753 - Christine Grahame (South of Scotland) (SNP) (Date Lodged 9 May 2002) :
To ask the Scottish Executive what information is available to the public about Common Good Funds.

Answered by Peter Peacock (27 May 2002): **Section 101 of the Local Government (Scotland) Act 1973 provides that, at certain advertised times, any member of the public may inspect and make copies of a local authorities accounts and related papers, including the Common Good Funds.**

S1W-25754 - Christine Grahame (South of Scotland) (SNP) (Date Lodged 9 May 2002) :
To ask the Scottish Executive what mechanisms are in place to monitor local authorities' transactions in respect of Common Good Funds.

Answered by Peter Peacock (27 May 2002): **Common Good funds are administered by local authorities and therefore fall within the audit of local authority accounts. The body responsible for securing these audits is the Accounts Commission for Scotland.**

S1W-25755 - Christine Grahame (South of Scotland) (SNP) (Date Lodged 9 May 2002) :
To ask the Scottish Executive what the most recent figures are for Common Good Funds held by local authorities.

Answered by Peter Peacock (27 May 2002): **This information is not held centrally.**

S1W-25757 - Christine Grahame (South of Scotland) (SNP) (Date Lodged 9 May 2002) :
To ask the Scottish Executive what information is accessible to the public in respect of the £22,132,000 held by local authorities in Common Good Funds at 31 March 2000.

Answered by Peter Peacock (27 May 2002): **Information about the amount of monies held in Common Good Funds in Scotland is not held centrally. Any member of the public may, at certain advertised times, inspect a local authorities accounts and relating documentation including the Common Good Funds, under section 101 of the Local Government (Scotland) Act 1973.**

Results

Between January and April 2005, letters were sent to all Scottish Councils requesting information about Common Good Funds and Assets (*see Annex IV*). Reminders were issued in May 2005 to those who had not replied.

Of the 32 Councils, 3 provided no response. Comhairle nan Eilean acknowledged receipt but failed to follow this up with a full response. Aberdeenshire Council acknowledged receipt but failed to provide any further information. Stirling Council failed to even acknowledge receipt of the initial letter and the reminder and provided no information.

Of the remaining 29 Councils,

- 20 provided details of common good land that they held
- 6 claimed that they had no common good land to report
- 2 refused to supply any information
- 1 is still in the process of supplying the information.

Annex III contains details of the responses and the common good assets reported.

The information supplied ranged in quality from an incomplete, poor quality photocopied extract from a spreadsheet (*see overleaf - City of Edinburgh Council Common Good*) to an excellent, apparently definitive, comprehensive, detailed map of properties supplied by Angus Council.

Perth and Kinross Council supplied detailed maps of Common Good land in Auchterarder and Perth complete with historical alienations. However, the data was incomplete with land and property in Crieff, Alyth, Kinross and other burghs absent. Councils with extensive assets such as South Ayrshire, Renfrew, Moray and Fife provided extensive lists but no maps. In the case of Fife much of the data appeared to be historical and the location of many properties was noted as “unknown”.

Other councils provided some information but in most cases it was clearly incomplete. Staff were almost invariably helpful but were obviously hampered by inadequate or non-existent records and ignorance of what common good meant.

In some cases this partiality was acknowledged and in a number of cases there was a worrying incompatibility between property records and financial accounts. Ignorance of what property was held in common good did not seem to have prevented sets of accounts being produced that purported to include both the value of the fixed assets and the income from these assets. It goes without saying that it is impossible to be satisfied that the finances are in order when the location and extent of the assets is partially or completely unknown. Quite how the Councils concerned can account for income from assets and yet not know what or where those assets are is a mystery.

Three Councils provided an unsatisfactory response. One (Dundee City) simply admitted it did not know and kept no record. Two (Falkirk and North Lanarkshire) cited inordinate expense to look through thousands of titles to determine which were common good and

File Reference	Owner	Occupier	Value	Beats	Property Description	Street	Sheet	Value Date
			0			STREET		

Value Date	Street	Property Description	Value	Beats	Total Value	Land Value	Value	Beats	Owner	Occupier	File Reference
01-Apr-02(2A)	CALTON HILL	GARDEN GROUND		DIM					COMMON	R & COOPER	14389
01-Apr-02(36)	CALTON HILL	CITY OBSERVATORY CALTON HILL (0.742)	4,243,800	HIST					LOUT	COMMON	9851
01-Apr-02(4D)	CALTON HILL	HOUSE AT CITY OBSERVATORY	1,000	HIST					LOUT	COMMON	9851
01-Apr-02(13A)	CALTON ROAD	GROUND (REAR ST ANDREW'S HOUSE)	2,400	HIST					LOUT	COMMON	4157/912
01-Apr-02(C)	HEAD OF HARBOUR	SOUTH QUEENSFERRY HARBOUR		HIST					LOUT	COMMON	13946
01-Apr-02(3)	MEADOW WALK	PRIVILEGE OF AN ACCESS	1,300	HIST					LOUT	COMMON	561725
01-Apr-02(8)	REGENT ROAD	BURNS MONUMENT		HIST					LOUT	COMMON	8848
01-Apr-02	SESSION HOUSE	SESSION HOUSE		DIM					LOUT	DALMEN	14512/1
					1,247,784	2					

Value Date	Street	Property Description	Value	Beats	Total Value	Land Value	Value	Beats	Owner	Occupier	File Reference
01-Apr-02(15)	BRINTSFIELD LINKS	PROPERTY DESCRIPTION		DIM					COMMON	SCOTTISH POWER PLC	ES485333
01-Apr-02(38D)	CALTON HILL	ELEC WAYLEAVE EDZ87 (976 YDS)	12,500	DIM					LOUT	COMMON	1328
01-Apr-02(38E)	CALTON HILL	RADIO MAST SITE (8.74 SQ M) CALTON HILL	23,807	OMV					LOUT	COMMON	8426/54
01-Apr-02	CALTON HILL	REFRESHMENT STANCE		OMV					LOUT	COMMON	3210
01-Apr-02	LADY ST ARTS HOUSE	TELEPHONE FIXTURES		DIM					LOUT	COMMON	1918/29
01-Apr-02(19)	LEVEN TERRACE	GAS GOVERNOR SITE (48 SQ M)		DIM					LOUT	COMMON	18841
21-Jan-02	SOUTH MEADOW WALK	SERVITUDE FOR CYCLEWAY/FOOTPATH (260)		DIM					LOUT	COMMON	9824
01-Apr-02(20)	BALLANTYNE ROAD	SERVITUDE FOR CYCLEWAY/FOOTPATH (187)		DIM					LOUT	COMMON	781
01-Apr-02	LEAKINGTON WALK	AMENITY GROUND (PART FORMER BOAT BRUNT)	190,000	DIM					LOUT	COMMON	17287
01-Apr-02	MERCARSTON PARK	CHILD GUARDANCE CENTRE (MONT HOUSE)		OMV					LOUT	COMMON	8426/32
01-Apr-02(41)	MID TERRACE	CELLARS BELOW MID TERRACE	40,960	OMV					VAC	COMMON	8426/5
01-Apr-02	PRINCES STREET	SITE FOR CAROUSEL	440,000	OMV					LOUT	COMMON	ES485333
01-Apr-02(45)	PRINCES STREET	RISK (ADJACENT TO SCOTT MONUMENT)		DIM					LOUT	COMMON	1701/10
01-Apr-02(62)	ROXBURGH CLOSE	ELEC WAYLEAVE EDZ78 (88 YDS)		DIM					LOUT	COMMON	ES485333
01-Apr-02(1)	ROXBURGH CLOSE (24)	WAYLEAVE (GANGWAY OVER ROXBURGH)		DIM					LOUT	COMMON	ES485333
01-Apr-02(1A)	SCOTLAND ST LANE	ELEC WAYLEAVE EDZ781		OMV					VAC	COMMON	8192
01-Apr-02(4)	SCOTLAND ST LANE	SITE OF GARAGE (44 SQ YDS)	6,289	OMV					LOUT	COMMON	128201
01-Apr-02(1)	SCOTLAND ST LANE	GROUND FOR TENNIS COURTS AND PAVILION	900	OMV					LOUT	COMMON	14512
01-Apr-02(3)	SESSION LANDS	ALLOTMENT GROUND (0.33ACRE)	1,000	OMV					LOUT	DALMEN	14386
01-Apr-02(8)	ST JAMES PLACE	SESSION LANDS (4.88AC 5.1.38AC)	30,769	OMV					LOUT	COMMON	10668
01-Apr-02(1E)	STEWARTS	GROUND (144 SQ M)		DIM					LOUT	COMMON	10600
01-Apr-02	WAVERLEY BRIDGE	SOLIA OF STEVENLAW'S CLOSE		OMV					LOUT	COMMON	
					748,170	80,000					

thus claimed exemption under Section 12 of the Freedom of Information (Scotland) Act. In effect they do not know what assets they hold under common good. Falkirk claimed the information was already public as it could be obtained from Registers of Scotland. This is incorrect since much council property is not registered and that which is may be contained in thousands of separate titles which will not reveal any common good character without time-consuming and in-depth historical research.

Analysis

It is worth taking a closer look at some of the responses since they illustrate the serious problems that exist in the stewardship of common good assets. The first thing to remember is that the sums of money involved in common good funds are significant. The total value of the Funds examined in this study is £180,967,208.

Sums associated with individual funds can be significant. For example, on 26 January 2005, 2 plots of land at the Citadel in Ayr were sold for £2.2m from which the Ayr Common Good Fund was due £1.75m (Scottish Enterprise Ayrshire being due the balance of £0.45m).

In Tain, the mussel fishery held by Tain Common Good Fund is a highly profitable business operated by Highland Fresh Mussels Ltd. which reported a turnover of £320,732 in the year ending 31 March 2004. A new vessel was commissioned in 2004 and named by HRH Princess Anne.

The common good assets of the community are significant. However, the true figure will be considerably greater since the £181 million total recorded here is derived from assets that are partially recorded, not fully exploited, and which are contained in accounts which use a variety of accounting conventions including the historic cost convention in valuing the assets.

Against this background the detailed findings reveal,

- a worrying ignorance about the topic itself;
- appalling record keeping; and
- manifestly inaccurate financial reporting.

Let us have a look in more detail at these three issues.

What is the Common Good?

The first thing that becomes clear is that there is no consistent understanding of what the term common good even means never mind what assets are held under it.

In response to my initial enquiry, one official in a Property Department told me,

I can confirm that the term Common Good Land caused some confusion and raised eyebrows until a definition was kindly provided by one of my colleagues in Legal Services.

Greenock and the Disappearing Common Good

Inverclyde Council was unable to confirm what common good land it held in Greenock or in any other burghs. There are, however, £984,000 of fixed assets recorded in the accounts to 31 March 2004. Where might these assets be? Since the Council was a party to an important legal case recently regarding the status of the harbour at Greenock, I thought it worth digging around a bit.

Coincidentally, one informant had mentioned something about the Hector McNeil Baths in Greenock and how they were built on common good land but had now closed, been demolished and the site awaiting redevelopment. Here's what we found out from the public record.

In 1928 Sir Michael Hugh Shaw Stewart gifted a number of parcels of land to the Corporation of Greenock as public parks by a Deed of Gift. The Deed contained the condition that the land be held and administered

in all time coming only as public parks and open spaces for behoof of the inhabitants of the Burgh of Greenock.

the only buildings or erections which it shall be competent to my said disponees to erect and maintain.....shall be such as they may erect thereon by virtue of the Statutes relating to public parks or such as shall have been previously approved of by me or my foresaids.

The land thus became part of the common good of the Burgh of Greenock held under a burden that it be used as public parks. The Lady Alice Park was one of these parcels and the Hector McNeil swimming

baths were erected on part of the site. In recent years the baths closed and were replaced by the new Waterfront Leisure Centre at Customs Quay. Various proposals were floated for the future of the Baths site and now it appears that a new primary school is to be built on the site.

In November 1999 Inverclyde Council obtained a Minute of Waiver from Sir Houston Mark Shaw Stewart (who was the successor in title to his Great Uncle Sir Michael) which waived the conditions laid down in the original 1928 Deed of Gift. This Minute of Waiver was obtained on the basis that Houston was the feudal superior of the land though there is some question about the validity of this since the original gift was not a feudal transaction. Nevertheless, Inverclyde Council was seeking to have the conditions of the gift nullified in order to take forward development of the site.

This was presumably done in order to use the land for purposes other than a public park. However, our informant speculated that it was also done to remove the land in question from the common good fund.

Thus the land remains part of the common good of Greenock. If Inverclyde Council wish to use it for any other purpose, it should seek the authority of the Courts to remove the site from the common good fund in order to pursue its school building plan. Having liberated the title from the public park burden, the Council should then credit the common good fund with a capital sum that reflects its capital value as a site for a new school or pay a ground rental to the Common Good Fund.

The term was defined as land which the Council has obtained not using taxpayers money or from government funding i.e. bequests, gifts, etc. Unfortunately, I have been advised that this is something that has not been recorded. To undertake the required research would take some considerable time and no doubt expense.

No definition of the term Burgh Common was forthcoming. However, you kindly enlightened me in this respect in our phone conversation and as a result I shall make further enquiries.

Another (and one with some experience of managing common good assets in another local authority) responded to my queries about this confusion as follows,

Andy - I think it's primarily a question of classification and usage in different parts of the country. Some former Town Halls are considered to be Common Good but others are not. Some gifts of land or property can be specifically stated to be to form part of the Common Good Fund but others do not acquire the same status. Sometimes property coming into Council ownership from private trusts seems to acquire Common Good status and other times not.

Record Keeping

The responses reveal a standard of record keeping that means that it is impossible for Councillors (who are in the position of quasi-trustees) to properly discharge their fiduciary duties.

Inverclyde Council claimed to have no common good land. This is untrue (see *Box - Greenock and the Disappearing Common Good*, left).

Dundee City Council reported to us that,

I would advise that the Council do not keep a record of the location or extent of land and property in the form of Burgh Commons or a separate record of Common Good Land. The Council does, however, have a Common Good Fund and I enclose a copy of the accounts for your information.

In this reply is contained the essence of the problem. By their own admission Dundee City Council do not know the extent and location of their Common Good assets. Yet they have a common good fund and the income from land held under the common good is what is supposed to provide the revenue income for the common good fund! But looking at their accounts, there is £3000 recorded as income and £34,000 recorded as property costs. Thus, one would imagine that the finance department at least must know where this income is coming from and to what properties these costs are being attributed. And if costs are £34,000 and income only £3000, what does reveal about how the assets are being managed?

In Orkney the Common Good Fund consists of a variety of assets, all of which were formerly common good assets of the respective Kirkwall and Stromness Town Councils. The assets include heritable properties in Kirkwall and Stromness, the Badges and Robes of Office and a balance on the Loans Fund. In their response the Council claimed that,

Many of the assets listed as Common Good assets are poorly described and may be difficult to accurately identify now, having been carried forward in the Council's Accounts under a brief name at an historical cost. Amongst the recognisable assets are the 'Municipal Buildings, Broad Street including Conversion and Youth Centre' and the 'Pavilion in Bignold Park.'

Aberdeenshire Council Accounts are so poor they merit reproducing in full (see Box - *Aberdeenshire Common Good Accounts below*). They show no fixed assets or heritable property. Yet, although Aberdeenshire never responded to the survey, we know that they hold valuable assets. For example, an extract from the Minutes of Banff and Buchan Area Committee held in Fraserburgh on 11 February 2003 reports on the sale of a Garage/Store at Harvey Place, Banff and that, since the property was "held on the Banff Common Fund Account, all proceeds from the sale should be credited to Banff Common Good Fund."

In Banff, Duff House and 140 acres of land are common good assets (and currently the subject of bitter debate relating to the sale of land to Tesco and the relocation of sports facilities). In every burgh across Aberdeenshire there are museums, parks, shops, offices and town halls which are common good assets. Yet in the 2001/02 accounts, the 2002/03 accounts and the 2003/04 accounts they are nowhere to be seen.

North Lanarkshire Council declined to provide information since, under the Freedom of Information Act, they claimed that it would take disproportionate effort. In any event they did not consider that they had any common good assets. They certainly do not have any Common Good Funds. Yet the Town Halls in Airdrie and Motherwell and many of the parks in the towns are all common good assets having been gifted by various Victorian philanthropists.

Aberdeenshire Council Common Good Accounts 2003/04

Statement of Accounting Policies

The Common Good Funds were inherited from the former Town Councils and can be disbursed on projects within the boundaries of these former burghs.

	Balance as at 1 April 2003 £'000	Revaluation of investments £'000	Income £'000	Expenditure £'000	Balance as at 31 March 2004 £'000
Movement in Funds	(1,424)	(45)	(77)	85	(1,461)
Investment of Funds at 31 March			2003 £'000	2004 £'000	
Equities & Securities			14	19	
Other investments			216	257	
Aberdeenshire Council Loans Fund			1,194	1,185	
Total			1,424	1,461	

Perhaps the most striking finding to emerge from this survey was the extent to which common good assets have been lost from the books. The reporting of the assets owned by common good funds appeared comprehensive in the case of perhaps six or so councils. For the rest it was chaotic. Following a Council's response, a quick consultation of a local history book of a burgh or even a cursory search using Google (www.google.co.uk) on the Internet revealed a host of town halls, museums, parks and open space that clearly forms part of the common good of many burghs but yet remained unreported. These properties are worth hundreds of millions of pounds.

For example, Glasgow City Council omitted to mention the rather obvious Glasgow Green. The parks in Greenock, the Town Hall in Kinross, the Market Muir in Alyth, the Meadows in Edinburgh were among over 100 examples of significant common good assets that Council officials failed to identify in their inventories.

Accounting for the Common Good

Accounting for common good assets is at the root of the problems identified in this report. It is a matter of concern that Councils do not know what property is held under Common Good Accounts. But were this the only issue then it could be overcome by conducting a proper audit of the assets. It is not, however, the only problem.

Because the assets are not properly accounted for in the asset registers of Councils, the value those assets represent and the revenue that those assets are capable of yielding is unknown. From even a cursory glance at the official accounts of local authorities this fact becomes obvious. Two Councils - Inverclyde and Aberdeenshire - do not even publish separate accounts for each Common Good Fund. It is not possible to discharge the responsibilities of stewarding the Common Good Fund if information on the common good is not available for each Fund. It is consequently not possible for citizens to hold the Council to account for how the Funds are managed.

The most obvious problems in the accounts of Common Good Funds are that:

- they fail to show the full range of assets;
- they fail to value them properly;
- they consequently fail to account properly for the income and expenditure associated with the assets; and
- they must as a consequence be concealing information vital to citizens.

The following cases are examples of these problems.

Dunoon Common Good Fund had total assets at 31 March 2004 of £7000 and yet sales of land have taken place of land gifted to Dunoon and thus in the common good which yielded considerable sums of money. Where did this money go?

In Hamilton, over £50 million of land sales receipts have been received in recent years but the Hamilton Common Good Fund's total value is a mere £3,620,000 with Fixed assets worth a mere £1,765,000. What has happened to this £50 million? (*See Box - Hamilton Common Good Fund and the Missing Millions for the full story overleaf.*)

Hamilton Common Good Land and the Missing Millions

The Hamilton Ahead Initiative is a major regeneration project being carried out in Hamilton town centre. Over 80% of the finance for the project is being obtained from the sale of land held in the Hamilton Common Good Fund. As at 31 March 2004, a total of £50,735,000 had been generated from land sales.

The total assets of the Hamilton Common Good Fund stood at £3,620,000 on 31 March 2004 and included £1,765,000 of fixed assets. There is thus a discrepancy of around £49 million between the receipts from land sales and the fixed assets value of the Common Good Fund.

What happened to the £50m from land sales? Well, together with £11 million from other sources, the accounts tell us that a total of £61,795,000 was spent as follows:

	£ ,000
Property acquisitions/ Compensation Payments	8,832
infrastructure/Landscaping	27,957
Regent Way Refurbishment	3,889
Brandon House Refurbishment	1,666
New Town Square	5,904
Palace Grounds Sports Facilities	3,408
Hamilton Town House Refurbishment	1,378

The proceeds of the sale of common good assets were thus invested in a range of new assets which should, therefore, remain part of the Hamilton Common Good Fund. But, as noted above the fixed assets of the Fund stand at a mere £1,765,000. What has happened and why is the Fund £49 million poorer than it should be? It might partly be explained by different methods of accounting. For example, spending £5.9 million on New Town Square does not mean that New Town Square is now worth £5.9 million (although if it is not, it raises questions about the prudent use and investment of the

Common Good Fund). But we asked the Council for their explanation.

The Executive Director (Finance, & IT Resources & Deputy Chief Executive) of the Council, Mr Archibald Strang, stated in a letter of 13 October 2005 that,

“The Hamilton Ahead initiative uses the sale of Hamilton Common Good assets as a source of funding to finance developments that provide benefit in line with the principle of the Common Good Fund. However, as these assets are managed or maintained by other resources of South Lanarkshire Council, they appear on the balance sheet of the Council and not the Common Good Fund”

The problem for South Lanarkshire Council, for the good citizens of Hamilton, and perhaps even for Tom McCabe MSP who, as leader of the Council from 1995 to 1999 initiated the project, is that you can't do this. The assets of the Hamilton Common Good Fund, the proceeds of the sale of Common Good assets, and the assets acquired using the Common Good Fund, belong - legally - to the Hamilton Common Good Fund.

Interestingly, the list that South Lanarkshire Council supplied of the Common Good assets held by the Hamilton Common Good Fund did include the assets that the Common Good Funds are understood to have been invested in (see Annex III under South Lanarkshire - Hamilton). These include the cinema, the Asda and the leisure developments in the Palace Grounds. Clearly the Property department of the Council has a different understanding of the issue from the Finance department.

The Hamilton Common Good Fund should thus get their assets back and the good citizens of Hamilton should be told who authorised this raid on their common wealth.

Valuations in accounts are often given on a historic basis. In other words, the value of the asset is given as the value it had at some historic point in time - often the point at which it was acquired. This gives rise to ridiculous situations. For example, the Municipal Buildings in Kirkwall have an asset value of £10,410. This is almost identical to the valuation for the Robes and Badges of Office etc. which are valued at £10,425.01 (at 1973 insured values).

The extent of this under-valuation can be ascertained from the accounts of The Highland Council for the year ending 31 March 2004. In the Balance Sheet the common good assets are shown at historic cost convention and revealed as £2,510,759. In the Notes to the accounts, the assets are included at the most recent valuation (31 March 2002) and at £15,232,000 are around six times greater than in the Balance Sheet.

By failing to properly record the assets of the common good it is impossible to know whether the assets are being properly stewarded and whether all the income that derives from them is in fact being accounted for.

Aberdeen City Council Property Department do not know what assets are held under common good yet their accounts for 31 March 2004 report a total value of the common good fund of £31,231,000 of which land and property account for £25,907,000.

The Highland Council reports no fixed assets against Fortrose and Cromarty in the accounts yet there are properties held as common good in these two burghs and at least one yields an income (a caravan park in Fortrose).

South Ayrshire lists no fixed assets in the Maybole Common Good Fund which stands at a paltry £1197 and yet there is a fine town hall earning a reasonable rent from numerous functions and meetings.

One interesting development is that a number of Councils are registering their Common Good Funds as charitable bodies. A search on the website of the Office of the Scottish Charity regulator listed the following,

SC019363	Stirling Council Common Good Fund
SC019478	Paisley Common Good Fund
SC019479	Renfrew Common Good Fund
SC019480	Johnstone Common Good Fund
SC021328	Oban Common Good Fund
SC021329	Campbeltown Common Good Fund
SC031538	Scottish Borders Council Common Good Fund

To conclude, the situation is far from satisfactory. Assets which should be stewarded to promote the welfare of the community are missing from the books of local authorities and the funds are, as a consequence, starved of the revenue that is rightfully theirs.

Taking account of missing assets and under-valuations, the estimated value of the common good assets that should be held on behalf of communities to generate wealth and community benefit might easily stand at around £1.8 billion or £360 worth of assets for every person in Scotland. This compares with a figure of around £15 billion estimated to be the total worth of all land, property, plant and equipment owned by local authorities in Scotland.

So much for the detailed findings. What are the broader issues arising from these findings?

Discussion

Poor Records

Poor record keeping of common good assets appears to be widespread in local government. Contributory factors to this include the changes in structure of local government, staff turnover, internal reorganisation, and pressure on capital budgets. However, these do not excuse the fundamental failing that in too many cases proper records have not been kept.

It is interesting to contrast the poor quality response of the City of Edinburgh Council (*See Box - City of Edinburgh Council Common Good p16*) with the excellent report prepared in 1905 by Thomas Hunter, the Town Clerk and Robert Paton, the City Chamberlain (13). The precise nature, extent and finances of the City's common good is accounted for in over 107 pages including a detailed map. Interesting properties include 6380 acres of mussel scalps and oyster beds in the Firth of Forth. Evidently the Edwardians, with ink pens and foolscap paper were better equipped to take care of the City's assets than modern councils with computers, spreadsheets, databases and Geographic Information Systems.

It is interesting also to contrast the response of different councils. For example, within the four Royal Burghs of Angus, the Council provided details of over 160 properties mapped in great detail.

By contrast in Dundee, Glasgow, and Edinburgh there are between them all only 32 properties. This is not credible and suggests a vast gulf between local authorities as to how accurately and diligently they have kept records of the common good of their citizens.

Advice on asset management issued by the Scottish Executive stresses the importance of maintaining an effective asset register.

Local authorities cannot manage their property assets without knowing what they have, where it is, what is its condition, and what is the demand for it.

Property assets should never be allowed to be considered a 'free' resource, as service departments will lose the incentive to improve the efficiency of their accommodation. (17)

The Advisory Note suggests that local authorities adopt the 'Corporate Landlord' approach whereby a notional rent is charged to each department for the space they occupy and that this should appear on their budget on a quarterly basis.

This raises an important point. Common Good assets are held for the common good of the inhabitants of the former burghs. But local authorities frequently occupy these assets to discharge statutory functions not only in the former burgh but for the larger local authority area.

Do any of these departments pay a competitive market rent to the Common Good Fund? If not why not? Common good funds (and thus assets) should not be used for functions that are part of the statutory duties of a local authority. Thus if Municipal Buildings are being used for discharging the statutory functions of a local authority, the Council should pay rent to the Common Good Fund. How many Municipal Buildings and Burgh Chambers across Scotland are occupied by a Council paying an economic rent to the Common Good?

Uncertain Legal Status

The frequency of court actions over common good land is testimony to the confused state of the law. Existing statutory provisions are capable of widely varying interpretations giving communities and local authorities little certainty as to their rights and responsibilities and the outcome of any actions. The forthcoming legal textbook by Ferguson (15) should help clarify the legal situation but it is clear that a significant number of local authorities are not as clear as they should be on the legal issues.

This lack of clarity usually manifests itself when the Council proposes disposing of a common good asset. Typically there is a question as to whether it is a common good asset and this is followed by discussion as to the proper course to be followed in selling the property.

It is worth reiterating that there are essentially two broad legal questions.

The first is concerned with deciding what assets are and what assets are not held by the common good fund.

The second is concerned with whether the asset, if it is held by the common good fund, is alienable or inalienable and what is the proper process to be followed in disposing of it.

Most legal cases in recent years are concerned with the second question and arise as a consequence of the local authority disposing or proposing to dispose of an asset and this being opposed or questioned by the community affected. But such cases mask the much more fundamental first question and this is evidently where many local authorities are falling short due to their incomplete identification of common good assets.

The first question, however, is relatively easily resolved. In the Magistrates of Banff case referred to earlier, it was stated quite clearly by Lord Wark that all property held by burghs prior to 1975 is common good property unless it has:

- a. been acquired using statutory powers or
- b. acquired and held under a special trust.

Nothing could be clearer and, as previously pointed out, this remains the authoritative legal opinion on the matter and was most recently cited by Lord Drummond Young in the Inner House of the Court of Session in the case of Andrew Wilson and others v. Inverclyde Council 2003.

All that citizens and others need to do to uncover their common good assets is to establish how their Council came into possession of the relevant property. By examining the title deed it should be clear whether statutory powers were being invoked or a special trust was being created. If neither of these conditions apply then the property is a common good asset. It's as simple as that.

Accounting for Common Good Assets

In too many cases Councils appear to be in varying states of ignorance about their common good assets and are consequently publishing inadequate accounts.

In particular there are problems with:

- common good assets missing from common good accounts;
- Councils using property and paying little or no rent to the common good; and
- under valuation of common good assets

In a report commissioned by Audit Scotland to investigate complaints over the stewardship of common good funds in Scottish Borders Council, hard evidence of financial loss was uncovered. For example, a building company built houses on common good land in Peebles by mistake. In one of the report's conclusions, the auditors said,

Sales of common good assets appear to be accounted for appropriately once identified. In relation to the [building company case], issues surrounding the identification of common good land and the demarcation of properties highlight the fact that if there is a failure to properly identify common good properties, these will not be correctly accounted for when they are sold. (16)

Too often property that is meant to be held for the benefit of the burgh is in reality managed as part of the often confused and unfathomable wider property portfolio of a local authority.

Lack of Transparency

Until recently, many local authorities were unwilling to divulge details of what land was held under common good accounts. This may in part be due to poor record keeping but without doubt is also a consequence of a desire for secrecy and to preserve freedom to manoeuvre on the part of councils. They are under pressure to achieve best value for money, maximise capital receipts and be innovative. Restrictions on their freedom to dispose of land is regarded in many cases as a nuisance.

Too often the lack of information has effectively concealed a range of conduct from incompetence to impropriety to illegality. One interesting example of this concerns the former Secretary of State for Scotland, Willie Ross (see *Box - Willie Ross's Free Pies*).

Willie Ross's Free Pies

Reflecting on the role of Secretary of State for Scotland in the week the Office was abolished in June 2003, the journalist Bob Shields wrote,

It looks like I'll never be the Secretary of State for Scotland.

It's not the kind of job most schoolboys would fantasise about. But then most schoolboys didn't walk from Ayr's Belmont housing estate to Ayr beach, every sunny day of the holidays. The route took you from one of Scotland's newest council estates past some of the oldest and most elegant homes douce Ayr had to offer.

Bouncing our ball down a street called Chapelpark Road, me and my pals were stunned into silence when a sleek, chauffeur-driven black Rolls Royce, pennants flying from both wings, slipped past us then turned into a gravel driveway and out of sight.

Convinced we had seen The Queen, we couldn't wait to tell our parents of our exciting experience. So imagine my disappointment when my report of this royal sighting didn't even merit my dad diverting his concentration from the Sporting Life.

"That would be Wullie going home for his tea," he said from behind the racing pages.

"Who's Wullie?"

"Wullie Ross. He's the Secretary of State for Scotland."

Of course, I hadn't a clue what that meant. But I ran round to tell my pals our royal sighting wasn't royal after all.

There was much debate about what a Secretary of State for Scotland actually did.

But we reckoned he probably got to see Ayr United for nothing. Maybe even free pies. A chauffeur-driven Rolls AND free admission to Somerset Park? That was good enough for me.

(Daily Record 14 June 2003)

We do not know whether Willie Ross was given free admission to Ayr United games nor whether he enjoyed free pies. We do know, however, that Willie got free common good land.

In a deed recorded in the register of Sasines for the County of Ayr on 19 March 1953 the Provost, Magistrates and Councillors of the Royal Burgh of Ayr sold one rood, one square pole and fourteen and thirty nine decimal or one hundredth square yards or thereby of land to Major William Ross, Member of Parliament for the Kilmarnock Division of Ayrshire.

The deed was signed by Willie Ross and witnessed by Malcolm MacPherson, MP for Stirling and Falkirk and Willie Hamilton, MP for West Fife. On behalf of the Provosts, Magistrates and Councillors of the Royal Burgh of Ayr, the deed was signed at a meeting held at Ayr on 9 March 1953 by Councillor Adam Hart, Councillor Andrew Young Crawford and Town Clerk, Robert Cunningham Brown, and sealed with the Common Seal of the Royal Burgh of Ayr.

The quarter acre plot of land at what is now 10 Chapelpark Road formed part of a 16 acre parcel of land purchased by the Council in 1947. The remaining part of this land not feued to Willie and others now forms Corsehill Park.

Willie's plot was sold by feu disposition.

The Provost, Magistrates and Councillors conveyed the land under the following feu burdens:

1. there should be erected within 18 months of entry a private dwelling of not less value than £3000 with details to be approved by the Council, and to be maintained as a private dwelling and used for no other purpose.
2. the Council bind themselves to ensure that other feus granted and fronting onto Chapelpark Road would contain the same £3000 condition
3. there shall be erected boundary walls four and a half inches thick and five feet high with nine inch butts at ten feet centres

In consideration of the feu, Willie Ross might have been expected to pay a sum of money - he was not. The only financial consideration was a £15 annual feu duty.

This transaction therefore amounted to a free gift of land owned by the Burgh to Willie Ross upon which to build the elegant home at the end of the gravel driveway into which the young Bob Shields observed the *sleek, chauffeur-driven black Rolls Royce, pennants flying from both wings* make its dignified entrance.

In the Spring of 2005 when I asked South Ayrshire Council what common good assets it held, Corsehill Park (the remaining portion of the land sold to the council in 1947) was not included in the list. When I enquired as to why this was I was informed that "Corsehill Gardens is not part of the Council's Common Good fund, it is held in the Parks Account."

This is interesting since all land that was formerly held by Ayr Burgh is common good land unless it was acquired using statutory powers or held in a special trust. The Magistrates of Banff vs Ruthin Castle Ltd. 1944 case settled this question.

On the Ross deed plan the land to the north east of the plot is annotated "Ground belonging to the Corporation of Ayr (Parks Dept). Now the Parks Department may very well have been the department that administered the land and it obviously continues to do so today. However, the Parks Department of the Burgh of Ayr (indeed the parks department of any current local authority) cannot hold title to any land. All land held by the Burgh of Ayr was owned by the Burgh and was held for the common good of the citizens of Ayr unless it was acquired in either of the ways specified previously. Corsehill Park thus remains part of the Common Good of Ayr and the plot sold to Willie Ross was part of the Common Good of the burgh of Ayr in 1953.

Of course, given the nature of the transaction and the possible motives behind it, it may well have suited the Council to regard the land as Parks Department land since such a transaction, had the land been admitted to be common good would probably have been unlawful.

Not only that, but other councillors appear to have benefited from similar transactions. Number 12 Chapelpark Road was granted to Lewis David Stewart who was the Town Chamberlain. Other transactions are still being investigated and we will report further in due course.

Local Government Today

Title to common good land rests with local authorities as the statutory successors to former burgh authorities. However, such authorities no longer have the close connection with the communities in whose interests the common good is supposed to be managed.

The forthcoming reform of the local government electoral system is going to make matters worse since any direct association between a Councillor and a former Burgh will be lost.

Now is therefore a good time to have a debate about how the common good might be secured for future generations. Already other legislation is impacting on common good land. For example, under the Agricultural Holdings (Scotland) Act 2003 which gives tenant farmers a right to buy their holding if it is put up for sale, a number of interests in common good land have already been registered including

AT00076	Lanark Racecourse (Lanark)
AT00326	Sandown Farm (Nairn)
AT00423	Selkirk Common (Selkirk)
AT00425	Selkirk Common (Selkirk)

Source: - <http://rcil.ros.gov.uk>

We conclude this report by making a series of proposals for reform.

Policy Recommendations

Although the survey findings presented in this report only form the results of an initial enquiry they contain enough evidence to allow us to make recommendations on how common good funds might be better managed. First of all, we need a vision of the role that should be played by Common Good Funds and Assets.

Vision

Common Good assets form a central part of the history, heritage, culture and identity of communities across Scotland. Over many decades, however, their significance has been lost, their status diminished, their role forgotten and their fate has become increasingly insecure. Our vision is to return them once again to a central place in the life of communities, to expand the portfolio of such property and to foster economic, social and environmental regeneration in Scotland's towns and cities.

It is now apparent that 30 years after the abolition of Town Councils, Scotland's towns and villages have lost much of their identity, cohesion and self-belief. Common Good assets can play a part in recovering civic identity and prosperity.

It is self-evident that those best positioned to take a view on the best interests of the inhabitants of a burgh are the inhabitants themselves through open, transparent and democratic debate. And yet they have no such avenue to do so. Instead the Local Authority is vested with the power to determine what is in the best interests of burghs. This is no longer sustainable.

There are literally hundreds of millions of pounds floating about in the form of previously unaccounted for assets, undervalued assets and underused assets. This wealth belongs to the local community and not to the Council and can be used to begin a process of civic renewal and physical regeneration, to deliver wealth and prosperity, and to give back to towns across Scotland some self respect, belief and power to better the welfare of their community.

In this light we propose the following reforms.

Information

- **A public register should be set up of common good assets (land, buildings and moveable property).**

This need not be yet another chore for local authorities but could be done on a collaborative basis between councils and communities making use of historical societies, community councils, schools and further education establishments. Part of setting up such a register is undertaking research into the history and development of Scotland's towns. This is an exciting topic. A register of a town's common assets should be an inspiring and motivating project.

Accounts

- **An accounting standard needs to be developed and implemented by all Councils in time for the preparation of the 2006/2007 accounts.**

In the interim, Councils should, in the 2005/2006 accounts publish the revenue and capital accounts to existing recognised standards including the fixed asset valuations, basis of valuation and inventory of assets for every year since 1975.

Accounts should not be amalgamated but should be presented for each former burgh and the closing revenue and capital accounts for each burgh in 1975 should also be published.

This involves little more than going through past Annual reports and abstracting information. We recognise that in such circumstances incomplete information is inevitable and therefore a statement should be provided describing, in the best judgement of the Accounting Officer, the completeness or otherwise of the records.

Management

- **The management of common good assets should be the subject of a review to ensure that they are achieving value for money and delivering optimum benefits for the community. In some cases this may involve developing a more business like approach to property management (e.g. industrial premises and offices). In other cases this will involve leaving things much as they are (e.g. links and moors etc.).**

Local Authority Use of Common Good Property

- **Local authorities should pay a full market rent for common good property that they occupy. This rent should be set by an independent valuer and the monies paid into the Common Good Fund.**

Disposal

Many disputes have arisen over the question of disposal of common good assets with arguments raging as to whether the asset is alienable or inalienable, whether a Council should obtain judicial approval, and whether the sale is in the best interests of the local community. Given the passions that can be aroused in such cases it hardly bears speculating what the outcry might be if the full portfolio of common good assets were known and detailed financial accounts examined for the past 200 years.

What little popular knowledge of common good assets exists is in large measure due to these disputes. Most communities (and councils) only wake up to the reality of the

situation when faced with a potential sale and there follows a rapid scrambling around to recover something of their forgotten history. The fight is fought and then everyone forgets about the topic until the next time.

It is thus beyond question that a fuller account needs to be made of common good assets in burghs across Scotland but until this is done, some added scrutiny is desirable.

- **As a short term measure in advance of the more fundamental recommendations being made here, all proposed sales of land by local authorities should be submitted for independent review to confirm its common good status or otherwise. Such a review should be undertaken according to published legal criteria.**

Repatriation of Funds

Common Good assets either form part of ancient burgh charters, have been gifted or bequested, or have been purchased by the burgh. In all such cases the current owners of the title (local authorities) have spent no money in acquiring them but have merely inherited them free of charge as part of the statutory transfers of property that have accompanied local government reorganisation in 1975 and 1996.

- **All former burghs should be given a statutory right to take back title to all the assets of the Common Good Funds in the name of a statutorily constituted local body whose primary purpose is local public benefit.**

This would enhance local democracy and civic identity and assist efforts at urban regeneration and the empowerment of citizens. It would complement the wider programme of land reform and provide communities with the potential to be entrepreneurial, innovative and dynamic. Such property should be governed by a new statutory set of rules for its management and disposal which could be formulated along the following lines.

- **A democratically elected Common Good Trust that would hold title to the property and manage the assets.**
- **A separate Trust which would receive funds for distribution and take decisions on beneficiaries.**
- **A strengthened Community Council with statutory powers of oversight and entitled to an annual return.**

A Common Good Fund (Scotland) Act

The Common Good Act of 1491 remains extremely useful but the above recommendations will require new legislation. We propose a Common Good Fund (Scotland) Act with the following content.

- Definition of common good land
- Asset register
- Valuation and Management
- Right to Repatriation of Funds
- Prohibition on striking down common good title through Minutes of Waiver
- Prohibition on the acquisition of common good land through prescriptive title

What next?

We hope to continue to investigate a number of cases that have been brought to our attention and to publish further reports on this topic. But above all we want you, the citizen, to join us in reclaiming our common inheritance.

We want you to investigate fully your own common good and to join in a national call for reform to ensure that the assets that were held by previous generations for the commonweal of the citizens of burghs across Scotland are recovered and handed down to future generations in a fit and proper state.

If you are interested in discussing any of the issues raised in this report please contact Andy Wightman at andywightman@caledonia.org.uk. If you do not have access to the Internet or email, please ask a friend to make contact on your behalf and I will provide an address you can use to get in touch.

Thank you for taking the time to read about this important part of Scotland's commonweal. Now, let's move forward to action and get the politicians, Parliament, the Scottish Executive, local authorities and we, the citizens, focussed on the business of debating and enacting a new Common Good Act for both present and future generations.

Andy Wightman & James Perman

November 2005

- 1 Robin Callander, 1987. *A Pattern of Landownership in Scotland*. Haughend Publications, Finzean. p.120.
- 2 Thomas Johnston, 1920. *A History of the Working Classes in Scotland*. Forward Publishing, Glasgow. p.164
- 3 *Report from the Select Committee to whom the Several Petitions from the Royal Burghs of Scotland were referred 12 July 1819*. p.23.
- 4 *General Report of the Commissioners Appointed to Inquire into the State of Municipal Corporations in Scotland*. HMSO, London, 1835. pp.30-31.
- 5 *Municipal Corporations* p.13.
- 6 *Working Classes* pp.163-164.
- 7 *Working Classes* p.167.
- 8 See *Municipal Corporations* pages 26-30 for a full description.
- 9 *Municipal Corporations* p.30.
- 10 *Working Classes* p.174.
- 11 *Working Classes* p.389.
- 12 *Local Reports of the Commissioners Appointed to Inquire into the State of Municipal Corporations in Scotland Part II from Glasgow to Wigtown*. HMSO, London, 1835. p.269.
- 13 See for example Thomas Hunter and Robert Paton, 1905. *Report on The Common Good of the City of Edinburgh*. Lord Provost, Magistrates and Council of the City of Edinburgh.

This is a fascinating account of the state of the Common Good in the City of Edinburgh. It outlines the history of the common good, its importance and makes recommendations as to its future management.
- 14 Kenneth R. Bogle, 2004. *Scotland's Common Ridings*. Tempus, Stroud.
- 15 Andrew Ferguson, in press. *Common Good Law*. Avizandum Publishing, Edinburgh.
- 16 Scottish Borders Council. Investigations into complaints surrounding the stewardship of the Common Good Fund. November 2004. Scott-Moncrieff CA.

This report, commissioned by Audit Scotland report is not available on the Audit Scotland website but it is in the public domain. Please email andywightman@caledonia.org.uk to obtain a pdf copy.

Details of the petition PE 875 can be found at
<http://www.scottish.parliament.uk/business/petitions/docs/PE875.htm>

The full text is also reproduced at
http://www.caledonia.org.uk/commonweal/epetition_01.htm
- 17 Local Government in Scotland Act 2003 - Asset Management under Best Value Advisory Note. Non-statutory advisory note issued by the Best Value Task Force on the role of asset management in Best Value. Scottish Executive, January 2005. Available at:

<http://www.scotland.gov.uk/library5/localgov/lgambv-00.asp>

List of Annexes

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List of the burghs of Scotland

ANNEX II

List of Common Good Funds abstracted from accounts

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ANNEX V

Story from the *Southern Reporter* 14 January 2005

ANNEX V

The Largs Common Good. A series of reports by James Perman

This annex lists the burghs of Scotland and what kind of burgh they are.

The list is derived from George S. Pryde's book, *The Burghs of Scotland. A Critical List* published by Oxford University Press in 1965. To this has been added Police Burghs not listed by Pryde.

Please note that many of the burghs listed by Pryde are also Parliamentary or Police Burghs but they are accorded the royal/regality/barony status in this list.

Aberchirder	Police Burgh	Ballater	Police Burgh
Abercorn	Burgh of Barony	Ballinclach	Burgh of Regality
Aberdeen	Royal Burgh	Balnakilly	Burgh of Barony
Aberdour	Burgh of Barony	Balnald	Burgh of Barony
Aberfeldy	Police Burgh	Banchory	Police Burgh
Aberlour	Burgh of Barony	Banff	Royal Burgh
Abernethy	Burgh of Barony	Barrhead	Police Burgh
Aboyne	Burgh of Barony	Bathgate	Burgh of Barony
Airdrie	Burgh of Barony	Bearsden	Police Burgh
Airth	Burgh of Barony	Beaully	Burgh of Regality
Alford	Burgh of Barony	Belliehill	Burgh of Barony
Alloa	Burgh of Regality	Biggar	Burgh of Barony
Alness	Burgh of Barony	Bishopbriggs	Police Burgh
Alva	Police Burgh	Blackford	Burgh of Barony
Alyth	Police Burgh	Blairgowrie	Burgh of Barony
Amisfield	Burgh of Barony	Blantyre	Burgh of Barony
Ancrum	Burgh of Barony	Bo'ness	Police Burgh
Annan	Royal Burgh	Bonnyrigg	Police Burgh
Anstruther Easter	Royal Burgh	Borrowstouness	Burgh of Barony
Anstruther Wester	Royal Burgh	Bothwell	Burgh of Barony
Arbroath	Royal Burgh	Brechin	Royal Burgh
Arbuthnot	Burgh of Barony	Bridge of Allan	Police Burgh
Ardgay	Burgh of Barony	Bridgeness	Burgh of Barony
Ardgowan	Burgh of Barony	Buchlyvie	Burgh of Barony
Ardrossan	Burgh of Barony	Buckie	Police Burgh
Armadales	Police Burgh	Burghead	Police Burgh
Auchmartin & Easter Balblair	Burgh of Barony	Burrtisland	Royal Burgh
Auchry	Burgh of Barony	Callander	Police Burgh
Auchterarder	Royal Burgh	Campbelltown	Burgh of Barony
Auchtergaven	Burgh of Barony	Campbeltown	Royal Burgh
Auchtermuchty	Royal Burgh	Cardoness	Burgh of Barony
Auchtertool	Burgh of Barony	Carluke	Burgh of Barony
Auldearn	Burgh of Barony	Carnoustie	Police Burgh
Ayr	Royal Burgh	Carnwath	Burgh of Barony
Balgavies or Greenmyre	Burgh of Barony	Carrick	Burgh of Barony
Ballantrae	Burgh of Barony	Carsphairn	Burgh of Barony

Carstairs	Burgh of Barony	Dingwall	Royal Burgh
Cartland	Burgh of Barony	Dirleton	Burgh of Barony
Castle Douglas	Burgh of Barony	Dollar	Burgh of Regality
Ceres	Burgh of Barony	Dornoch	Royal Burgh
Clackmannan	Burgh of Barony	Douglas	Burgh of Barony
Clatt	Burgh of Barony	Doune	Burgh of Barony
Clydebank	Police Burgh	Drem	Burgh of Barony
Coatbridge	Police Burgh	Drumlithie	Burgh of Barony
Cockburnspath	Burgh of Barony	Drummochy	Burgh of Barony
Cockenzie and Port Seton	Burgh of Barony	Dryburgh	Burgh of Barony
Coldingham	Burgh of Barony	Dudhope	Burgh of Regality
Coldstream	Police Burgh	Dufftown	Police Burgh
Colinsburgh	Burgh of Barony	Dumbarton	Royal Burgh
Contin	Burgh of Barony	Dumfries	Royal Burgh
Corshill-over-Inchgall	Burgh of Barony	Dunachton	Burgh of Barony
Coupar Angus	Burgh of Barony	Dunbar	Royal Burgh
Covesea	Burgh of Barony	Dunblane	Police Burgh
Cowdenbeath	Police Burgh	Dunbog	Burgh of Barony
Cowie	Free Burgh	Dundee	Royal Burgh
Craig	Burgh of Barony	Dunfermline	Royal Burgh
Crail	Royal Burgh	Dunglass	Burgh of Barony
Craufordsdyke	Burgh of Barony	Dunkeld	Burgh of Barony
Crawford	Burgh of Barony	Dunning	Burgh of Barony
Crawfordjohn	Burgh of Barony	Dunoon	Police Burgh
Creetown	Burgh of Barony	Duns	Burgh of Barony
Crieff	Burgh of Regality	Durris	Free Burgh
Cromarty	Burgh of Barony	Dysart	Royal Burgh
Cromdale	Burgh of Barony	Earlsferry	Royal Burgh
Crook of Devon	Burgh of Barony	Earlston	Burgh of Barony
Culbockie	Burgh of Barony	East Haven of Panmure	Burgh of Barony
Cullen	Royal Burgh	East Kilbride	Police Burgh
Culross	Royal Burgh	East Linton	Police Burgh
Cumbernauld	Police Burgh	Echt	Burgh of Barony
Cumnock	Burgh of Barony	Eddleston	Burgh of Barony
Cupar	Royal Burgh	Edinburgh	Royal Burgh
Dalbeattie	Police Burgh	Edzell	Burgh of Barony
Dalgarnock	Burgh of Regality	Elgin	Royal Burgh
Dalgattie	Burgh of Regality	Elie	Burgh of Barony
Dalkeith	Burgh of Regality	Ellon	Burgh of Barony
Dalmellington	Burgh of Barony	Elphinstone	Burgh of Barony
Dalmeny	Burgh of Barony	Errol	Burgh of Barony
Dalnagairn	Burgh of Barony	Eyemouth	Burgh of Barony
Darnaway	Burgh of Barony	Fairlie	Burgh of Barony
Denny	Police Burgh	Falkirk	Burgh of Regality
Deskford	Burgh of Regality	Falkland	Royal Burgh

Fettercairn	Burgh of Barony	Innerwick	Burgh of Barony
Fifeness	Burgh of Barony	Insch	Burgh of Barony
Findochty	Police Burgh	Inveraray	Royal Burgh
Fochabers	Burgh of Barony	Inverbervie	Royal Burgh
Fordoun	Burgh of Barony	Inverbrora	Burgh of Regality
Fordyce	Burgh of Barony	Inverkeithing	Royal Burgh
Forfar	Royal Burgh	Inverness	Royal Burgh
Forgandenny	Burgh of Barony	Inveruchill	Burgh of Barony
Forgue	Burgh of Barony	Inverurie	Royal Burgh
Forres	Royal Burgh	Irvine	Royal Burgh
Fort William	Police Burgh	Jedburgh	Royal Burgh
Fortrose & Rosemarkie	Royal Burgh	Johnstone	Police Burgh
Foullis	Burgh of Barony	Keith	Police Burgh
Fraserburgh	Burgh of Barony	Keithick	Burgh of Barony
Fullarton	Burgh of Barony	Kelso	Burgh of Barony
Gairloch	Burgh of Barony	Kelton	Burgh of Barony
Galashiels	Burgh of Barony	Kenmore	Burgh of Barony
Galston	Police Burgh	Kennoway	Burgh of Barony
Gargunnoch	Burgh of Barony	Keppoch	Burgh of Barony
Garmouth	Burgh of Barony	Kilbarchan	Burgh of Barony
Gatehouse of Fleet	Burgh of Barony	Kilbirnie	Burgh of Barony
Geddes	Burgh of Barony	Kilbride in Arran	Burgh of Barony
Girvan	Burgh of Barony	Kilbucho	Burgh of Regality
Glamis	Burgh of Barony	Kildrummy	Burgh of Barony
Glasgow	Royal Burgh	Killin	Burgh of Barony
Glenluce	Burgh of Barony	Kilmarnock	Burgh of Barony
Gourock	Burgh of Barony	Kilmaurs	Burgh of Barony
Grange	Burgh of Barony	Kilmun	Burgh of Barony
Grangemouth	Police Burgh	Kilpatrick	Burgh of Regality
Grantown-on-Spey	Burgh of Regality	Kilrenny	Royal Burgh
Greenock	Burgh of Barony	Kilsyth	Burgh of Barony
Haddington	Royal Burgh	Kilwinning	Police Burgh
Halkerton	Burgh of Barony	Kincardine o Neill	Burgh of Barony
Hamilton	Burgh of Regality	Kincardine on Forth	Burgh of Barony
Hatton of Fintray	Burgh of Barony	Kinghorn	Royal Burgh
Hawick	Burgh of Regality	Kingussie	Burgh of Barony
Helensburgh	Burgh of Barony	Kinloss	Burgh of Barony
Hemprigs	Burgh of Barony	Kinross	Burgh of Regality
Heron	Burgh of Barony	Kintore	Royal Burgh
Houston	Burgh of Barony	Kirkcaldy	Royal Burgh
Huntly	Burgh of Regality	Kirkcudbright	Royal Burgh
Hyndlawhill	Burgh of Barony	Kirkintilloch	Burgh of Barony
Inglismaldie	Burgh of Barony	Kirkliston	Burgh of Regality
Innergelly	Burgh of Barony	Kirkmichael	Burgh of Barony
Innerleithen	Police Burgh	Kirkton of Dundonald	Burgh of Barony

Kirkwall	Royal Burgh	Meikle	Burgh of Barony
Kirriemuir	Burgh of Barony	Meikle Dalton	Burgh of Barony
Knockreavie	Burgh of Barony	Meikleour	Burgh of Barony
Lacock of Abercairney	Burgh of Barony	Melfort	Burgh of Regality
Ladybank	Police Burgh	Melrose	Burgh of Barony
Laggan or Islay	Burgh of Barony	Merton	Burgh of Barony
Lanark	Royal Burgh	Methil	Burgh of Barony
Langholm	Burgh of Regality	Millport	Police Burgh
Langton	Burgh of Barony	Milngavie	Police Burgh
Largo	Burgh of Barony	Milton of Balvennie	Burgh of Barony
Largs	Burgh of Barony	Miltonhaven	Burgh of Barony
Lauder	Royal Burgh	Minnigaff	Burgh of Barony
Laurencekirk	Burgh of Barony	Minto	Burgh of Barony
Leadhills	Burgh of Barony	Moffat	Burgh of Regality
Leith	Burgh of Barony	Moniaive	Burgh of Barony
Lerwick	Burgh of Barony	Monifieth	Police Burgh
Leslie	Burgh of Barony	Montrose	Royal Burgh
Leslie Green	Burgh of Barony	Monymusk	Burgh of Barony
Lesmahagow	Burgh of Barony	Motherwell	Police Burgh
Leven	Burgh of Barony	Mount Stuart	Burgh of Regality
Linktown	Burgh of Barony	Mugdock	Burgh of Barony
Linlithgow	Royal Burgh	Muirtown	Burgh of Barony
Linton	Burgh of Regality	Musselburgh	Burgh of Regality
Livingston	Burgh of Barony	Myreton	Burgh of Barony
Loanhead	Police Burgh	Nairn	Royal Burgh
Lochgelly	Police Burgh	New Galloway	Royal Burgh
Lochgilphead	Police Burgh	Newbattle	Burgh of Barony
Lochloy	Burgh of Barony	Newburgh, Aberdeen	Burgh of Barony
Lochmaben	Royal Burgh	Newburgh, Fife	Royal Burgh
Lochryan	Burgh of Barony	Newburgh, Wigtown	Burgh of Barony
Lockerbie	Police Burgh	Newmill of Strathisla	Burgh of Barony
Logierait	Burgh of Regality	Newmilns	Burgh of Regality
Longforan	Burgh of Barony	Newport on Tay	Police Burgh
Longnewton	Burgh of Barony	Newton Mearns	Burgh of Barony
Lossiemouth	Police Burgh	Newton of Gogo	Burgh of Barony
Luss	Burgh of Barony	Newton Stewart	Burgh of Barony
Macduff	Burgh of Barony	Newtyle	Burgh of Barony
Magnusburgh	Burgh of Barony	North Berwick	Royal Burgh
Markinch	Burgh of Barony	Oban	Burgh of Barony
Maryburgh	Burgh of Barony	Old Greenlaw	Burgh of Barony
Marywell	Burgh of Barony	Old Meldrum	Burgh of Barony
Mauchline	Burgh of Regality	Ordiquhill or Park	Burgh of Barony
Maxton	Burgh of Barony	Paisley	Burgh of Regality
Maxwelltown	Burgh of Barony	Peebles	Royal Burgh
Maybole	Burgh of Barony	Pencaitland	Burgh of Barony

Penicuik	Police Burgh	Stirling	Royal Burgh
Perth	Royal Burgh	Stonehaven	Burgh of Barony
Peterhead	Burgh of Barony	Stonehouse	Burgh of Barony
Petty	Burgh of Barony	Stornoway	Burgh of Barony
Pitlessie	Burgh of Barony	Stranraer	Royal Burgh
Pitlochry	Police Burgh	Stranraer	Burgh of Barony
Pittenweem	Royal Burgh	Strathaven	Burgh of Barony
Polmont	Burgh of Regality	Strathdon	Burgh of Regality
Port Glasgow	Free Burgh	Strathmiglo	Burgh of Barony
Port of Menteith	Burgh of Barony	Stromness	Burgh of Barony
Portkill	Burgh of Barony	Tain	Royal Burgh
Portknockie	Police Burgh	Tarbat	Burgh of Regality
Portmahomack	Burgh of Barony	Tarbolton	Burgh of Barony
Portpatrick	Burgh of Barony	Tarland	Burgh of Barony
Portsoy	Burgh of Barony	Tarves	Burgh of Barony
Preston	Burgh of Barony	Tayport	Burgh of Barony
Prestonpans	Burgh of Barony	Terregles	Burgh of Barony
Prestwick	Burgh of Barony	Thirlestane	Burgh of Regality
Queensferry	Royal Burgh	Thornhill	Burgh of Regality
Rayne	Burgh of Barony	Thurso	Burgh of Barony
Reay	Burgh of Barony	Tillicoultry	Burgh of Barony
Redcastle	Burgh of Barony	Tobermory	Police Burgh
Redford	Burgh of Barony	Torry	Burgh of Barony
Renfrew	Royal Burgh	Torthorwald	Burgh of Barony
Rhynie	Burgh of Barony	Town Yetholm	Burgh of Barony
Roberton	Burgh of Barony	Tranent	Burgh of Barony
Rosehearty	Burgh of Barony	Troon	Police Burgh
Rosemarkie & Fortrose	Royal Burgh	Troquhen	Burgh of Barony
Roslin	Burgh of Barony	Turriff	Burgh of Barony
Rothies	Police Burgh	Tynninghame	Burgh of Regality
Rothesay	Royal Burgh	Valleyfield	Burgh of Barony
Rothiemy	Burgh of Barony	Wemyss	Burgh of Barony
Rutherglen	Police Burgh	West Kerse	Burgh of Barony
Ruthven	Burgh of Barony	Whitburn	Police Burgh
Ruthwell	Burgh of Barony	Whithorn	Royal Burgh
Saltcoats	Burgh of Barony	Wick	Royal Burgh
Sanquhar	Royal Burgh	Wigtown	Royal Burgh
Selkirk	Royal Burgh	Wishaw	Police Burgh
Skirling	Burgh of Barony	Woodhead of Fetterletter	Burgh of Barony
Smailholm	Burgh of Barony		
Spynie	Burgh of Barony		
St Andrews	Royal Burgh		
St Monans	Burgh of Barony		
Stevenston	Police Burgh		
Stewarton	Burgh of Barony		

Annex II

Common Good Funds

The following table shows the Common Good Fund balances reported by Scottish local authorities. Where no breakdown of the Fund for each burgh is provided that is because none is reported in the Accounts. Likewise, where no breakdown of the Fixed versus other assets is provided that is because none is reported in the Accounts.

All figures are rounded to the nearest £1,000. This means that some small funds of under £500 are recorded as zero. The Grand Total is the sum of the actual figures reported in the Accounts.

Fund	Fixed Assets £ '000	Other funds £ '000	Total Value £ '000	Year to
Aberdeen	25907		31231	31 Mar 2004
Aberdeenshire			1461	31 Mar 2004
Angus	2908		5597	31 Mar 2004
Argyll & Bute				
Campbeltown			767	31 Mar 2003
Oban			781	31 Mar 2003
Inveraray			1	31 Mar 2003
Lochgilphead			5	31 Mar 2003
Dunoon			7	31 Mar 2003
Rothesay			167	31 Mar 2003
City of Edinburgh	1993	1460	3453	31 Mar 2005
Clackmannanshire			29	31 Mar 2004
Comhairle nan Eilean Siar			0	
Dundee City			3117	31 Mar 2005
Dumfries & Galloway				
Kirkcudbright	497	548	1045	31 Mar 2004
Castle Douglas	124	41	165	31 Mar 2004
Gatehouse	25	20	45	31 Mar 2004
Annan	177	203	380	31 Mar 2004
Lochmaben	0	14	14	31 Mar 2004
Lockerbie	65	26	91	31 Mar 2004
Stranraer	859	501	1360	31 Mar 2004
Whithorn	100	20	120	31 Mar 2004
Wigtown	83	7	90	31 Mar 2004
Dumfries	1133	101	1234	31 Mar 2004
Sanquhar	162	43	205	31 Mar 2004
East Ayrshire			190	31 Mar 2004
East Dunbartonshire	0	382	382	31 Mar 2004

Fund	Fixed Assets £ '000	Other funds £' 000	Total Value £' 000	Year to
East Lothian				
Dunbar			642	31 Mar 2004
Haddington			390	31 Mar 2004
Musselburgh			7452	31 Mar 2004
North Berwick			253	31 Mar 2004
East Renfrewshire	0	0	0	31 Mar 2004
Falkirk				
Bo'Ness			49	31 Mar 2005
Denny			5	31 Mar 2005
Grangemouth			23	31 Mar 2005
Falkirk			598	31 Mar 2005
Fife	2539	1813	4352	30 Jun 2004
Glasgow City	2403	6474	8877	31 Mar 2005
Highland				
Inverness	2511	4383	6894	31 Mar 2004
Tain	0	744	744	31 Mar 2004
Nairn	0	431	431	31 Mar 2004
Dornoch	0	161	161	31 Mar 2004
Dingwall	0	151	151	31 Mar 2004
Fortrose	0	120	120	31 Mar 2004
Cromarty	0	32	32	31 Mar 2004
Invergordon	0	49	49	31 Mar 2004
Inverclyde	986	447	1433	31 Mar 2004
Midlothian				
Dalkeith			103	31 Mar 2005
Penicuik			7	31 Mar 2005
Moray	2923	1605	4528	31 Mar 2004
North Ayrshire				
Ardrossan	2	74	76	31 Mar 2004
Irvine	1398	736	2134	31 Mar 2004
Largs	540	213	753	31 Mar 2004
Millport	0	41	41	31 Mar 2004
Saltcoats	0	15	15	31 Mar 2004
Stevenston	56	91	147	31 Mar 2004
North Lanarkshire			0	31 Mar 2004

Fund	Fixed Assets £ '000	Other funds £' 000	Total Value £' 000	Year to
Orkney Islands	15	639	654	31 Mar 2004
Perth & Kinross				
Aberfeldy	10	107	117	31 Mar 2004
Abernethy	0	134	134	31 Mar 2004
Alyth	0	27	27	31 Mar 2004
Auchterarder	2	173	275	31 Mar 2004
Blairgowrie	1	19	20	31 Mar 2004
Coupar Angus	0	0	0	31 Mar 2004
Crieff	0	1	1	31 Mar 2004
Kinross	0	1	1	31 Mar 2004
Perth	229	918	1147	31 Mar 2004
Pitlochry	0	8	8	31 Mar 2004
Renfrewshire	4378	13042	17420	31 Mar 2004
Scottish Borders				
Duns	12	21	33	31 Mar 2005
Galashiels	0	13	13	31 Mar 2005
Hawick	1466	405	1871	31 Mar 2005
Jedburgh	350	653	1003	31 Mar 2005
Kelso	0	108	108	31 Mar 2005
Lauder	389	236	625	31 Mar 2005
Peebles	519	289	808	31 Mar 2005
Selkirk	663	140	803	31 Mar 2005
Shetland Islands			0	31 Mar 2004
South Ayrshire	13570	2868	16438	31 Mar 2004
South Lanarkshire				
Lanark	423	178	601	31 Mar 2004
Biggar	0	39	39	31 Mar 2004
Hamilton	1765	1855	3620	31 Mar 2004
Rutherglen	258	234	492	31 Mar 2004
Stirling				
Stirling	462	132	594	31 Mar 2004
Callander	2	4	6	31 Mar 2004
West Dunbartonshire	2523	144	2667	31 Mar 2004
West Lothian	1	15	16	31 Mar 2004
TOTAL	83222		180967	

This annex contains a list of all the Common Good assets reported by Scottish Local Authorities in response to the survey. It is a substantially verbatim account with only minor obvious errors being corrected. The list only contains those assets reported by Councils.

nothing to report means that the Council claimed to have no Common Good assets

no information supplied means that the Council refused to supply any information

no response means that the Council failed to respond to the survey

ABERDEEN CITY COUNCIL

Aberdeen

Brimmond Hill
King's Links
Perwinnes Commonty
Tullos Industrial Estate

ABERDEENSHIRE COUNCIL

no response

ANGUS COUNCIL

Arbroath

Boulzie Hill
NOSWA storage tanks underground
Queens Drive Recreation Area
Hayswell Park
High Common and Low Common
West Common
Old Coastguard Premises
Webster memorial Theatre
Arbroath Library
Springfield Park
Keptie Pond and Park
Ruxton Memorial
Victoria Park
MacDonald Park
West Links Recreation Area (part)
Abbey Green Park
War memorial - High Common
Elliot Golf Links
Provosts Lamp High Street
Abbey Bowling Green & Premises
Old Parish Church
Ground at 19 East Grimsby
Lochlands Bowling Green & Premises
Ground East Grimsby

Brechin

Site of former reservoir, Golf Course
Office 10 St Ninians Place
Old Town House
Shop 7, Swan Street
Brechin City Hall
Ground - Cattle Raik Careston
Club - Gym Premises Commerce Street
Brechin Leisure Centre - Ground Lease
Inch Park PPN
The Den
St Ninian's Square
Brechin Public Park
Fair Agreement/Market Stance Golf Course
Cattle Raik Careston
Park Lodge Brechin Public Park
Wards Park
All weather pitch - Ground Lease
Pipe Band Hall, Bridge Street Park
Public Convenience, Bridge Street Park
Parks Stores - Ground Lease Bridge Street Park
Car Park Bridge Street Park
Ground - Cattle Raik 'Lochty
Ground - Cattle Raik Trinity
Ground at Willie Mills Burn, Hoodston Farm
Guthrie Park cricket ground
Shop 11, Swan Street
Shop/Store, 13 St ninians Place
GHround Floor Shop, 13 Swan Street
Former Firestation, 14 Southesk Street
Outreach Office, 5 Swan Street
Shop 50, A High Street
Mechanics Institute
Site for Garages Commerce Street
Store, 50 High Street
Shed - Cattle Raik Careston
Parkview Bowling Club
Ground Lease - Decant Housing Brechin Public Park

Forfar

Forfar Loch Country Park
Steeple & Clock, Forfar Parish Church
Common Myre
Balmashanner Woods
East Greens Car Park
lochside Caravan Park
Forfar Loch Trout and Pike Fishing Rights
Market Muir Public Park
Myre Car Park
Town and County Hall Offices
Municipal Buildings
Public Convenience Town & County Hall
Reid Hall Field
Ex. Guide Hall
Balmashanner War Memorial
Ground Lease Forfar Recycling Centre
Lochside Leisure Centre - ground lease
Town and County Hall Clock
West Greens Bleaching Field
Zoar Field
Site of Public Convenience Arbroath Road
Site of Public Convenience Craig O loch Road
Site of Public Convenience Market muir
Reid Hall Car Park
All weather Courts lochside
Recreation Area Forfar Loch
East Greens and Grass Mail
Town and County Hall
Market Muir Car Park
Ranger Base Forfar Loch Country Park
Playpark Forfar Leisure Centre
Car Park Lochside Leisure Centre
Car Park Forfar Loch Country Park
Car Park - Orchardbank Forfar Loch Country Park
Football Pitches Forfar Loch Country Park
Car Park (North) Lochside Leisure Centre
Car Park Ranger Base Forfar Loch Country Park
Car Park All Weather Courts Lochside Leisure Centre
Ground, South East of Guthrie Park
173.34 sq m Ground, Craig O Loch Road
Ground for Decant Housing, Craig O Loch Road
Ground and hut (old Renton Hut), Craig O loch RoadForfar Boys FC
Guthrie Park
2 areas of ground for Sailing Club
Store 9 Chapel Street/1 The Vennel
Sewage pumping Station Forfar loch
Ground and hut (old renton Hut) Forfar Racing Pigeon Club

Montrose

Mid Links (South) - Dorward Place, Warwick Terrace
Central Tree and Park Area Dorward Road
Curlie Park
East Links Recreation Area
Deans Park/Panmure Gardens
Fountain High Street
Montrose Town House
Show Site Marine Avenue
Scott's Park
Tennis Courts & Premises, Dorward Place
Hope-Paton Park
Jamisons Park
Montrose Golf Courses
Car Park Baltic Street
Montrose Caravan Park
West End Park
Parking Area Montrose Academy
Car Park Rosehill
Green Park
Melville Park
The Mall
Town House Clock
Statue/Fountain (The Port) High Street
Church and Steeple Clocks
Traill Pavilion
Play Area Traill Drive Seafront
Car Park Traill Drive Pavilion
Car Park Traill Drive
Car Park East Links
Grass Area Marine Avenue
Hockey and Football Pitches Marine Avenue
Grass Area Montrose Leisure Centre
Car Park Traill Drive - opposite cafe North
Car Park Traill Drive - opposite cafe Mid
Car Park Traill Drive - opposite cafe South
Car Park Traill Drive - Seafront
Mid Links (North) - Dorward Place, Warwick Terrace
Burns Park
Play Area 2 (north) Traill Drive Seafront
Play Area 3 (adjacent to Road) Traill Drive Seafront
Right of Access Bonnyman Developments
Inch Bowling Green & Premises Rossie Island
Melville Bowling Green & Premises
Club Hut Broomfield Road
Ground Western Road
Ground 0.262ha Broomfield
Ground Newhame Road
Hope Paton Bowling Green & Premises
Site 9 sq m Substation Traill Drive

Site of Coastguard Station Traill Drive
Union Park Rugby and Cricket Ground
Grazing lease Broomfield Road
Right of Access Prime UK (Health Centre)

ARGYLL AND BUTE COUNCIL

Rothesay

Westlands Farm
East Burgh Lands

CITY OF EDINBURGH COUNCIL

Edinburgh

Calton Hill Garden Ground
Calton Hill City Observatory
Calton Hill House at City Observatory
Calton Road (rear of St Andrew House)
South Queensferry Harbour
Regent Road Burns Monument
Lady Stair's House
Bruntsfield Links
Leven Terrace Gas Governor Site
The Meadows
Ballantyne Road Amenity Ground
Merchiston park
Princes Street Gardens
Scotland Street Lane (Tennis Courts and Allotments)
St James place ground
Stevenlaws Close solum
Waverley Bridge 1.68 acres

CLACKMANNANSHIRE COUNCIL

Alva

Cochrane Hall

COMHAIRLE NAN ELIEAN SIAR

no response

DUMFRIES AND GALLOWAY COUNCIL

Annan

Historic Resources Centre (Old Library)
Fish House, Whinnyrigg

Castle Douglas

Shop, King Street
Shop, St Andrews Street
Flat Tower House, King Street
Citizen's Advice Offices, Bank House

Dumfries

Robert Burns Centre Museum
Salmon Fishings, River Nith & River Cairn
Car Park, Nuntholm
Site, Buccleuch Street
Tanneries

Gatehouse of Fleet

Garries Park
Burgher Park

Kirkcudbright

Golf Course and Car Park
Tolbooth Art Centre
Workshop, Mews Lane
3 Garage Sites, Stirling Crescent
Woodlea Garage Site, Burnside Loaning
Allotments, Glendroit
Video Scene, Harbour Square
Low Boreland Farm
Land, River Dee
2 Garages, Glendroit

Newton Stewart

Bowling Green & Pavilion, The Square
Trammondford Football Ground
Old Town Hall & Clock, George Street
Whithorn Library, St John Street

Sanquhar

Tolbooth Museum, High Street
No Mans Land
Heuksland Field

Stranraer

Stair Park Nursery & Depot, London Road
Stair Park Facilities (Stranraer FC)
Stair Park Pavilion, London Road
Museum, Old Town Hall
Castle of St John Museum

DUNDEE CITY COUNCIL

nothing to report

EAST AYRSHIRE COUNCIL

Dunlop

Lugton Road Memorial Gardens

Kilmarnock

Howard Park

Scott Ellis Playing Fields
Piersland park
Kay Park
Dean Park
Dean Castle Country park

Newmilns

The Green

Stewarton

Standalane War Memorial

EAST DUNBARTONSHIRE COUNCIL

Nothing to report

EAST LOTHIAN COUNCIL

Dunbar

Subjects adjoining Bleachfield
St Margarets - Golf Club & Sports Club
Esplanade - part of Bayswell
Esplanade - part of Winterfield
Part of Bayswell Park
Putting Green and Ground at War Memorial (formerly The
New Glebe)

Part of Castle Park
Castle Cottage
Foreshore and Reclaimed Ground at Seafield
Pavement (Cossars Wynd)
35 High Street
8 Church Street
Town House, 85 & 87 High Street
7 & 9 Silver Street
Foreshore at Belhaven
89-91 High Street
Ground at 18/20 Edinburgh Road
Esplanade, Bayswell
22 Edinburgh Road
Excambion at Silver Street
3.5 The Vennel
15 Silver Street
Property, Castle Street
Bleachingfield, Countess Park
33-51 (odd nos.) Countess Road
Land, High Street
Land, The Vennel
Yellowcraig
Heatherley House, Silver Street
Stores, Victoria Street at the Shore
Former Swimming pool, Foreshore at Bayswell

Part of Bayswell Park, Putting Green & War Memorial
Ground
Ground for Development, Countess Road & Crescent
Ground for House Development, East Links & Queens Road
Town Offices, 85-87 High Street

Haddington

Haughs on North bank of River Tyne

Musselburgh

Musselburgh Race Court (part)
Town Hall & Tollbooth
Land to rear of Town Hall
Part of Sea Beach, Fisherrow
Ash Lagoon Area
140 North High Street
Brunton Hall, Ladywell Way
River Esk Walkway & Sea Shore Links adjacent to
Mackinlay Park
Ground Floor, 37A Bridge Street
The Mill Lade
145 - 157 North High Street
118 & 118A North High Street
37 Bridge Street
Upper Flat, 142 North High Street
47 Bridge Street
The Paddock, Musselburgh Race Course
Leisure Park, Levenhall Links
Ground, Balcarres Road
Musselburgh Links, Race Course & Golf Course
7 High Street
Goosegreen & Millhill Stables, Millhill
Half Share of Original Race Track Grandstand
Grazing Field, Panbraes, Westpans
Foreshore to Low Spring Tide, Rosehall, Fisherrow
Harbour
Haugh Park (part), Eskside Terrace
Monktonhall Haugh, Monktonhall Terrace

North Berwick

1 and 3 High Street
Ground at 2 Quality Street

EAST RENFREWSHIRE COUNCIL

nothing to report

FALKIRK COUNCIL

no information supplied

FIFE COUNCIL

Aberdour

Gates at Dovecot Park, High Street

Anstruther

Land at Golf Club

Cellardyke Town Hall

Coastal Slopes

Garage & Store, St Andrews Road

Milton Farm (Garage Sites)

St Andrews Road Industrial Estate - various plots

The Loan (garage site)

Toll Cottage

Wester Town Hall

Auchtermuchty

Public Green

Town Hall

Burntisland

Municipal Buildings

19 Rossend

Music (Young) Hall

The Links

Crail

1.6 acres at West Quarry Braes

1.74 acres East Quarry Braes

10.98 acres Balcomie Links

1-2 Rumford

20 West Green

65 Nethergate

8 and 10 Tolbooth Street

Beech Walk Public Park

Castle Walk

Former Gas Works Building, Crail Harbour

Kingsmill

Marketgate North and South

old Bowling Green Road, playground

Peatfield, St Andrews Road

Town Hall, Marketgait

Victoria Park (Fountain Park), St Andrews Road

Office and Store, the Harbour

Culross

Feuduties and Ground Annuals

St Stephen's Hall

Cupar

Burgh Chambers

Fluthers Car Park

Litte Common

Riggs Place

Dunfermline

Feuduties and Ground Annuals

City Chambers

Site of Carnegie baths and Gymnasium

Townhill Park

Ground at Pends

St Margaret's Cave and Grounds

Farm Lands at Lillehill

Old Mortuary Building, Abbey Gardens

West Drive Public Park

Ild Fire Station, Campbell Street

Minerals

Townhill Woods

Falkland

Land beside Lomondside Cottage

The Myre (Football)

The Myre (Golf)

Inverkeithing

Feuduties and Ground Annuals

Common Lands

Customs and Shore Dues

Corn Exchange, 4 Hope Street

Coalfield at Prathouse

East Fold Harbour Cottage and Sheds

Ferry Toll Quarry

Town house

16 - 18 Townhall Street

Church Street

2 - 16 Queen Street

Queen Mary Terrace

Old Ship Yard

48 King Street

Advertising Hoarding, Harbour Place

Kinghorn

Rossland Motel

Town House

South beach

Pettycur Harbour

Bow Butt/Bleaching

St James Brae

Kirkcaldy

Alexander Street
Volunteers Green
Dubbie Dowbutts
Harbour (Dysart)
Normand Hall, Rectory Lane, Dysart
4.81ha land, Templehall
Site, Esplanade
Site, Cheviot Road

Leslie

Ballenbreich Town Lands
Barony
Leslie Common
Croftouterly
Greenside Garages

Leven

Carberry House & Nursery

Markinch

Flower Store

Pittenweem

0.04 ha, Charles Street
1.9 acres at East Park
Area of Ground at Charles Street
Ground at Charles Street
Gusset or Elvan Faulds
Hardstanding at Charles Street
Mid Myre and Mid Muir
Old Town Hall (part)
Tollbooth
West Braes, Outdoor Swimming Pool
West Braes/West Shore Playground
West Braes/West Shore Putting Green
Pittenweem New Hall, Session Street
Grazing Paddock, Milton Road

St Andrews

St Andrews Town Hall
Mussel Scalp at Eden
Queens Gardens
Victoria Memorial Hall
Lammas Market

St Monans

East Braes including play area, putting green, disused
bathing pool

Foreshore

Hope Place, Bowling Green and Pavilion
Hope Place, Car park
Miller Terrace, Lock-Up
the Common, Caravan Site
The Common, Playground incl. football pitch
Town Hall
Heritage Collection, 5 West Shore
Land, Rose Street

GLASGOW CITY COUNCIL**Glasgow**

53 - 67 Byres Road
4/6 Dowanhill Street
174/182 Dumbarton Road
165/169A Great George Street
407-439 Great Western Road
33-37 Riverford Road
254/290 Sauchiehall Street
119A-123 Gorbals Street
1284 Dumbarton Road
41/43 Nithsdale Drive
249/257 Sauchiehall Street
Humbie Farm, Mearnskirk
Virginia Street (Servitude)
234 London Road
120 Woodville Street

HIGHLAND COUNCIL**Dingwall**

Grass area size of football pitch gifted in 1923

Dornoch

Dornoch Links (526 acres)

Fortrose & Rosemarkie

Caravan Site

Inverness

Longman Industrial Estate

Nairn

Sandown
Nairn Links
Riverside
The Maggot
Viewfield

Tain

Links Park
Mussel Beds

INVERCLYDE COUNCIL

nothing to report

MIDLOTHIAN COUNCIL

nothing to report

MORAY COUNCIL**Buckie**

25B East Cathcart Street
Workshop On Land Opposite 26 Baron Street
Site At Yardie
Workshop Highland Yards
16 North Pringle Street
Undeveloped Land, Highland Yards
Freuchny Road
42A Commercial Road
Recycling Centre, Highland Yards
Workshops Etc., 10 East Cathcart Street
Undeveloped Ground, Highland Yards
Garage, Highland Yards
Workshops, Etc., Highland Yards
Ground adjacent to 45 The Yardie

Elgin

Riverside Caravan Site
Field Adjacent To Oakview
Aviary, Cooper Park
Ice Cream Stance, Cooper Park
Field Adjacent To The Oaks, Morriston Road
Cricket Pavilion, Cooper Park
Bowling Pavilion, Cooper Park
East Lodge, Cooper Park
Shooting Acres And Aughteen Part Lands
Ground Adjacent To The Mansion House Hotel
239 High Street
Cooper Park Nursery
Kiosk & Jetty, Cooper Park
Sunnybrae, Woodside
Public Convenience, Cooper Park
The Oaks Palliative Day Care Centre, Morriston Road
West Lodge, Cooper Park
Cooper Park, King Street
Lossie Green Car Park
Recreational Concession, Cooper Park

Storage Compound, Cooper Park
Leisure Centre, Borough Briggs Road

3 Victoria Road
5 Victoria Road
7 Victoria Road
9 Victoria Road
11 Victoria Road
15 Victoria Road
17 Victoria Road
Pansport Cottage, Grampian Road
Messines Cottage, 277 High Street
Sulva Cottage, 275 High Street
Cooper Park Nursery, King Street
Field at Riverside, West Road
Grant Lodge, Cooper Park
Car Park, Lossie Wynd North
13 Victoria Road
Playing Field, Borough Briggs
Woodland, Oakwood
Woodland, Quarrelwood Woodland Park
Elgin Library, Cooper Park

Fochabers

Bi Centennial Park
Skateboard Park, Bi Centennial Park

Forres

Fountain & Sunken Gardens, Grant Park
Well, Grant Park
Field A, Clovenside
Field B, Clovenside
Grant Park Bowling Club
Pavilion, Grant Park
The Greens
Christie Elite Nurseries Limited, Bogton Road
Courtyard Tolbooth
Squash Club, Grant Park
Clovenside Cemetery Car Park
Forres Bowling Club
Clubhouse, Forres Golf Course
Field, Pilmuir Road West
Field, Kingsmeadow
Tea Room/Shop, Grant Park
Forres Golf Course
Grant Park
Andersons Playing Field
Football Ground, Lea Road
Fishing Rights in River Findhorn, Findhorn Bay to Mundole
Former Pavillion, Grant Park
Depot, Grant Park

Keith

Keith Bowling Club

NORTH AYRSHIRE COUNCIL**Irvine**

Irvine Moor

Town House

Miscellaneous parcels of land

Largs

Routenburn Golf Club and House 11a Routenburn Road

Douglas Park and Douglas Park Bowling Club

Haylie House Home and grounds

Boyd's Park and Spring Gardens

Ground in Cathcart Road, part of Haylie Estate

Foreshore Car Park, Gallowgate Street

Ground at School Street/Boyd Street

NORTH LANARKSHIRE COUNCIL

no information supplied

ORKNEY ISLANDS COUNCIL**Kirkwall**

Municipal Buildings, Broad Street including Conversion
and Youth Centre

Stores and Yard, St Magnus Lane

Yards, Junction Road

Market Stance and Bleaching Green, Crafty

Ground, Easthill

Lands, Whiteford Hill

Market Stance, Sunnybank

Bignold Public Park

Pavilion in Bignold Park

Ground, Upper and Lower Dust Yards and Convs.

House, Store and Ground, Junction Road

Lands, Buttquoy

Ground, Papdale

Ground, Parks of Lynn

Stromness

Ground at Market Green

Ground at Saw Mills

Rocky Park

Old Power Stations, market green

Old Gymnasium, Cairston Road

Ground, Point of Ness

Garage, North End

Property, Dundas Street

PERTH AND KINROSS COUNCIL**Auchterarder**

Common Muir

Perth

City Mills hotel and Lower City Mills

Fair Maid's House and shop at 2 North port

27 Wilson Street

South Inch

54 West Mill Street

North inch

Moncrieff Island

Perth Harbour

Town Lade

RENFREWSHIRE COUNCIL**Johnstone**

Site, Gas St./Mary St.

Site, Walkinshaw St.

Paisley

Commercial Property, 1/7 Moss Street

Residential Home, 32/34 Stevenson Street

Pavillions, St James Park

Site, McGowan Street

Site, William Street

Renfrew

Police Station & Court House

Public Baths, Inchinnan Road

Town Hall, The Cross

Site, Brown Street

Sites, Fishers Road

Site, Clark Street

Car Park, Muir Street

Ferry Inn, Clyde Street

Shops, 4/6 High Street

Shops, 10/12 High Street

Surgery, 8 High Street (1/1)

Office, 8 High Street (1/2)

Office, 8 High Street (1/3)

Office, 8 High Street (2/1)

Office, 8 High Street (2/2)

Office, 8 High Street (2/3)

Car Park, Muir St.

Shop, 43 High Street

Site, Muir St. Sea Scout Hall

B & W Playing Fields, Paisley Rd

Car Park, Brown St
Car Park, Broadloan
Car Park, 45 High Street
KG V Playing Fields, KGV Renfrew

SCOTTISH BORDERS COUNCIL

no information supplied (in process)

SHETLAND ISLANDS COUNCIL

nothing to report

SOUTH AYRSHIRE COUNCIL

Ayr

South Harbour
4 Seabank Road
Ayr Esplanade & Low Green
South Beach Road
The Citadel
68/70 Prestwick Road
83, 87 and 1 South Harbour Street
1/5, 7/9, 11 & 13 Sandgate
Cromwell Road
Castlehill Road
Maryborough Road
Old Racecourse
230/234 High Street
Doonfoot Road
17/21 High Street
Mill Brae
Newton Old Church and Steeple
Chalmers Road East
Eglington Terrace/Bruce Crescent
2/4 River Terrace
1 Mount Charles Crescent
14 Green Street
33/35/37/41/43 Greenfield Avenue
Overmills Road
Boyd Street
Barnweil Monument
Parkhouse Street
River Ayr
Mill Wynd

SOUTH LANARKSHIRE COUNCIL

Hamilton

16/34 Castle Street
5 Blackswell Lane
92-94 Cadzow Street

11 Keith Street
Backmuir Plantation (16ha)
Hamilton Park
Low Parks, Strathclyde Park
Common Green
Bothwell Road Depot
37/39/41 Townhead Street
Former Almada Lodge, Bothwell Road
Cadzow Glen
Property in Quarry Street
Town Square
Hamilton Racecourse
Cinema Development, Palace Grounds
Asda Development, Palace Grounds
Retail Park, Palace Grounds

Lanark

43 High Street
Springbank Farm
Lanark Moor Country Park
Lanark Loch Land and Plantations
Braxfield Land and Plantation
Furrowflats Land
Melvinhall Park
Newmains and Botomlees
Lanark Racecourse
Castlehill Bowling Green
Castlehill Car Park
Newmains Farm
2/4 Tolbooth
37 South Vennel (gap site)
St Nicholas Church Tower
9 Castlegate
Car Park 28/37 Castlegate
Toilets, Castlegate

Rutherglen

145/149 The Tower, Main Street
Ground at Quay Road
Rutherglen Post Office, 159 Main Street

Stonehouse

Avonbank Woodlands

STIRLING COUNCIL

no response

WEST DUNBARTONSHIRE COUNCIL

Dumbarton

1,2,3, & 5 Birch Road, Broadmeadow Industrial Estate

1,3,4-6,8,10,12,& 14 Elm Road, Broadmeadow
Industrial Estate

1,5,7,9,& 11 Overburn Road, Broadmeadow Industrial
Estate

3,5,6,7,9,11A,12 & 13 Poplar Road, Broadmeadow
Industrial Estate

100 College Street

1 Quay Street

Old Academy Buildings, 16 Church Street

Playing Fields, Townend Road

WEST LOTHIAN COUNCIL

Linlithgow

Market Place at The Cross

Ground at North Side of Town Hall Streets and lanes

Horse Market Area

Kate Wearie's Dub and Townloanings

Cross Well and other Burgh Wells

Harbour and Foreshore

Learmonth Gardens

The following letter was sent to the Estates Department of Scottish Councils in April 2005.

Dear Sir/Madam,

Burgh Commons / Common Good Lands

I am undertaking some research on ancient common land and am writing to request information about the location and extent of land and property held by [name of Council] in the form of Burgh Commons or Common Good Land.

I would like details of how much land is held, where it is located and how it is administered. I would also be grateful for a copy of the latest set of accounts of the Council's Common Good Fund.

I would be happy to clarify this request by phone or email with any of your staff.

Many thanks in anticipation.

Yours faithfully,

Andy Wightman

A follow up letter was issued in May 2005 to Councils who had failed to respond. this was copied to the Council's legal services department.

Dear Sir/Madam,

Burgh Commons / Common Good Lands

I attach a letter I wrote to you on 12 April in connection with information on Burgh Commons and Common Good land.

I would be grateful if you could confirm receipt and indicate if and when you plan to respond.

Many thanks.

Yours faithfully,

Andy Wightman

cc. Legal Services

Annex V

The following report is from the *Southern Reporter* newspaper of 14 January 2005 and relates to the Scott-Moncrieff report commissioned by Audit Scotland into the administration of the Common Good Funds by Scottish Borders Council and published in November 2004.

In the dark over Common Good

A probe into how Common Good Funds are administered in the Borders has revealed major failings.

Experts pinpointed a lack of control and stewardship in how parts of the funds are handled and produced a blueprint for improvements. Common Good Funds are controlled by Scottish Borders Council with elected members sitting as trustees. But The Southern has learned that the critical report is being kept from councillors by their own officials.

The investigation was carried out by SBC's internal auditors Scott-Moncrieff on behalf of Audit Scotland. Scotland's financial watchdogs ordered the probe after it received complaints from the public.

Council officials have studied the report – but confirmed it won't be seen by councillors. Hawick's Andrew Farquhar knew nothing of it until contacted by The Southern. He blasted: "I am trustee of the town's fund and yet I have no knowledge of this report – that comes as a great surprise to me."

Complaints were received that the council did not have a complete register of assets – including land and a variety of items – owned by funds across the Borders and that assets were sold without sufficient justification. It was also maintained administrative blunders had been made in collecting rent and that profits were not properly accounted for.

The probe identified a failure by the council – revealed by The Southern last year – when it allowed a tenant to take over Williestruther Cottage at Hawick before signing a lease. She quit leaving unpaid rent of £8,400 outstanding which is now being pursued through the civil courts.

The auditors report: "While this case appears to be a one-off, there was still a failure by the council in

the management of this lease. The tenant should never have been allowed to occupy the premises without signing a legally-binding lease."

The report also highlighted problems in Peebles where a developer was allowed to build on land later identified as belonging to the local Common Good Fund. Also in Peebles, cash from the sale of common land to a local garage was not originally credited to the fund. It was later rectified.

The auditors also looked at whether the council knows exactly just what it held on behalf of the various funds. They ruled that stewardship of immovable assets – land and property – was satisfactory. But they found there wasn't a register of moveable assets – painting, statues, chains and the like. The closest were some insurance lists.

Scott-Moncrieff declared: "Given there is no list of moveable common good assets available to review, there is a risk that the council is failing to adequately perform its duties in respect of stewardship of all Common Good Fund assets and is failing to ensure that the public does not suffer a loss of income or title to common good property."

The report recommended a review of assets; closer working between the council's planners and estate officers and drawing-up of a register of what is owned by Common Good Funds.

The council's corporate finance boss Sandy Brown said action was being taken and that the report had not been seen by councillors because it was not a report to the council by the internal auditors but to the Audit Commission. But Councillor Farquhar was adamant: "That is a professional report and I want to see it."

The Largs Common Good

The following series of articles was written by James Perman and published in the *Largs and Millport Weekly News* in 1999.

Largs Common Good - Part 1

In the beginning there was no Common Good, in fact there wasn't even a Largs Town Council. We first need to go back to the setting-up of the Town Council to understand what was the situation at the time the Common Good was set up.

Largs became a Police Burgh in 1876, and later Acts of Parliament, such as in 1892, 1894, 1900 and 1903 defined the powers of the (eventual) Town Council as it existed in 1920. The 'rules' set out in the Acts stated what the Council could and could not spend the ratepayers' money on.

Some of the things that the Council could not spend the ratepayers' money on were civic receptions, local festivals and general 'promotion' of the town. Sometimes the councillors needed to spend their own money on such things.

In 1920 a benevolent landowner left some ground to the town, and the Council, with the agreement of the Burgh Auditor, decided to use this as the basis of a Common Good Fund. The hill ground was let for grazing, the gatehouse was let as a tearoom and part of the ground was rented to the Town Council where it laid out seven tennis courts. These rents were paid to the Common Good. This income of the Common Good could be used to pay for the things to benefit the town that the Council couldn't spend the ratepayers' money on. The original property of the Common Good is now Douglas Park, and the Common Good owns the ground all the way up to, and past, the direction indicator at the top.

Note that while the Common Good owns the land, the Council paid for the construction of the tennis courts, the bowling green and the gardens.

The Council kept the money collected from the tennis players and bowlers, as NAC does now, since the assets which generate the money were constructed by the Council. This is fair enough, and is the agreed basis of the 'contract' between the Common Good and the Council. Remember these points; we are going to see the same thing in reverse soon.

In 1927 the Town Council decided that something needed to be done about car parking in the town. The problem was that they could not spend the rates to build a car park. But the Common Good could build it. There were various meetings of the Motor Parking Committee, and at a Town Council meeting on 12 December 1927, an 'extensive report' was submitted by Councillor Martin and after a 'free discussion' the Council 'voted to proceed with the scheme'.

Now, at this point it is worthwhile to note that each councillor was wearing two hats. One as a Town Councillor and one as a trustee of the Common Good. As trustees of the Common Good they were obliged to do the right thing for the Common Good. They could not spend the Common Good's money on something which was mostly to benefit visitors and get no return.

The precise details of the 'scheme' are not available, but we can deduce the substance of what was agreed from what took place afterwards. The Common Good paid for the construction of the carpark and all of the related running expenses, and all the takings for parking charges were credited to the Common Good. So here was the substance of the 'contract', binding on both parties to it, the Town Council and the Common Good. A contract in law does not need to be written down to be valid and enforceable, it just needs

agreement and action on that agreement by the parties to it.

So now we see the 'Douglas Park' situation in reverse. With the carpark, the Council owned the land, but the Common Good paid for the construction and was entitled to the proceeds from it.

Other projects were also undertaken by the Common Good. In the early 30s there were some poor families in the town who could not afford to pay rent for the housing that was available. The Council couldn't spend the ratepayers' money to solve this problem. So the Common Good bought an old tenement property in Wilson Street, and let it out at rents which were affordable.

The Common Good was also used to buy Haylie House and the clubhouse for Routenburn Golf Course and for the houses next to it. The rent for these is paid to the Common Good.

Later on, in the 1960s and 70s the Common Good was used to buy ground in the middle of the town, which could be made available for public works in the future. These plots of land are now where St Colm's Place sheltered housing stands in School Street and the site of the AD Cameron Day Centre in Lade Street.

The accounts of Largs Town Council, which show the Common Good, reflect all of these transactions, right up to the end of Largs Town Council at 15 May 1975. In relation to the carpark none of the revenue has ever gone anywhere but the Common Good Fund, confirming the terms of the contract in 1927.

And so this was the situation at 15 May 1975.

And then along comes CDC.

Next week: Ian 'loses' the Common Good and then 'loses the place'.

Largs Common Good - Part 2

On 16 May 1975 Cunninghame District Council inherited all of the rights, duties and obligations of Largs Town Council. At this time all of the councillors of CDC, not just the Largs councillors, became the trustees of the Largs Common Good.

When CDC was set up the 'rules' in the Act specifically stated that the income and expenses of the Common Good Funds could not be intermingled with the general fund of the Council, and had to be accounted for separately, just as Largs Town Council had done.

As with most major reorganisations, there were some teething problems initially at CDC in getting things sorted out with the Common Good. In 1980 the Community Council wrote to the Local Authority 'Ombudsman' complaining that CDC 'lost' the Common Good for two years at reorganisation, that it was unable to get information on the Common Good from CDC and complained of 'maladministration'.

In 1983 there was further consternation when it seemed that the Common Good was 'in the red' and the Director of Finance, Ian Herd, wrote back to the Community Council with assurances that this was to do with one of the two different accounts of the Common Good, revenue and capital, possibly being in deficit, but in total over the two accounts everything was OK.

Things proceed until 1989, when it was revealed that all of the takings from the car park charges were not being paid to the Common Good. Instead of the Common Good paying for all of the costs of running the car park and receiving all of the income, CDC were paying a set yearly sum to the Common Good, and had been doing so since 1975. The yearly amount paid to the Common Good had not been reviewed since 1981. The Largs & Millport Weekly News asked a local Chartered Accountant (Ahem!) whether what CDC had done was correct, and the answer was no, it was not.

Ian Herd did not take this adverse comment very well, and at a Council meeting is reported as saying that if he found out who the CA was he would 'have his certificates off him'. He was told who it was.

Meanwhile the Accounts Commission, who audit Local Authorities, came on to the scene, and in July 1989 the Acting Controller of Audit provided CDC with a letter containing his analysis of the situation. Any 'loss' to the Common Good from 1975 to 1980 cannot be quantified (this is the period when Ian Herd appeared to 'lose' the be quantified (this is the period when Ian Herd appeared to 'lose' the Common Good). Taking all of the later years, it appears that things mostly 'even out' and that the Common Good had only lost out by £7,400 up to 1989. He also states that CDC should do the accounting for the car park income and expenses properly from now on.

This did not go down well at Cunninghame House, and at the August 1989 Council Meeting Mike McGuire, the Leader of the Council, tried out his Pontius Pilate impersonation and suggests that CDC 'wash its hands' of the car park and make it free, thereby denying the Common Good any income from it. The Convenor, Jack Carson, seconded this.

Sorry guys, you can't do that! Jimmy Gordon, the Director of Administration informed the Council that the duties of a trustee of the Common Good are more onerous in law than those of a councillor. As trustees they must do the best for the Common Good, no matter what they may personally want.

At this point Ian Herd took early retirement and was replaced as Director of Finance by Bob Hunter. I still have all of my 'certificates'.

In April 1990 Bob Hunter eventually agreed to amend the amount paid to the Common Good in respect of the two years to March 1990, but didn't give the Common Good the £7,400 in respect of the previous years. The accounting for the Common Good was changed from 1 April 1990,

so that it was done properly.

Everything now went quiet, but a query from the Community Council about the Common Good 'buying' a community centre in March 1991 brought the following comments from Jimmy Gordon: '...the Trustees (in this case all Members of the Council) have a fiduciary duty to act in the best interest of the Trust Fund. Therefore in this specific case so long as the property was a good investment and any subsequent lets reflected a comparable economic return the Trustees would be regarded as fulfilling their fiduciary duties'. Quite a good wee summary.

Then came the carpark extension! You will all know the basic story about how a wee redhaired viking-chap had his tent pitched across from Nardinis when the JCBs arrived, and this caused a big stooshie.

However, just before this, the Community Council had tried to get CDC to stop building the extension by legal means at Kilmarnock Sheriff Court, and had applied for an interdict to stop it. The notice of this was served at CDC on the day of a Council Meeting. It wasn't our old sparring partners McGuire and Carson who brought it up, it was David O'Neill, who asked for a list of the assets for all of the Common Good Funds in Cunninghame. And so started 'the review'.

Mike McGuire subsequently failed to be reselected as a candidate by the Labour Party for the next Council elections.

Next week: Jimmy, Bob and Bernard get an answer that the Common Good ended-up paying for, but what was the question?

Next week: Jimmy, Bob and Bernard get an answer that the Common Good ended-up paying for, but what was the question?

Largs Common Good - Part 3

Last week we left the Common Good at September 1991 when CDC had decided to find out what assets each Common Good had.

Each year there is a two-week period when ANY member of the general public can go to Cunninghame House and scrutinise the accounts and get access to all of the receipts and invoices, deeds and vouchers etc. This period is typically about September, when the accounts for the year to the previous 31 March have been prepared, but not yet audited. If there is something wrong with the accounts an objection can be made to the auditor, who will consider it when he does the audit.

The first year that the income and expenses of the carpark were accounted for properly was from 1 April 1990 to 31 March 1991. The real surplus for the year was just over £24,000. At that time there was no evidence of any income relating to the properties in Wilson Street, School Street and Lade Street (which you will remember about from the first week). Bob Hunter, the Director of Finance, was totally unaware of them or any income from them at this point.

Ian Mackay, the Depute Director of Administration, provided a list of the Common Good assets in November 1992. What was on this list was (sort of) what was expected, being Haylie Estate, Routenburn Clubhouse and the two houses beside it, the carpark on the seafront, Lade Street, School Street and Douglas Park. Where was Wilson Street?

At a Community Council meeting in November 1992 Bob Hunter is reported as saying that he 'expressed concerns that he may have to look at the total assets of the Largs Common Good Fund, which may be to the detriment of the Largs Common Good Fund, if too many awkward questions are being asked'. What was Bob up to?

The 'review' of all of the Common Good Funds

was continuing, and CDC had carried out all of the searches of legal titles by November 1992, and the costs of these were charged to the Common Good. Except for one. I bet you can guess which one that was. It seems that Ian Mackay and Bob Hunter were not quite on the same wavelength at this point.

As a wee aside here, Moorburn carpark had already been sold to CDC for £150,000 for sheltered housing and the gatehouse at Haylie had also been sold off and the money credited to the Common Good.

It is worthwhile also to note here that the Common Good was charged with an initial £34,000 in the year to 31 March 1992 for resurfacing the carpark. The following year to 31 March 1993, the Common Good was further charged with over £49,000.

And then came the results of the 'review' of the Common Good by CDC. Jimmy Gordon, the Director of Administration, issued a report to the Finance & Personnel Committee of CDC on 18 October 1993.

CDC had sold off (the by then derelict) 26 Wilson Street in 1981 for £3,500 and had kept the money.

School Street had originally been acquired by the Common Good in a 'swop' for building ground at Haylie (now Springfield Gardens). CDC had built sheltered housing on the School Street site in 1979. The value of the ground at School Street at the time of the 'swop' was £32,000.

Lade Street now had the AD Cameron Day Centre built on it.

The results of CDC 'losing' the Common Good in the early years after reorganisation in 1975 were now apparent.

CDC got an opinion of a legal Counsel about what to do. The Common Good had paid for Wilson Street and Lade Street, and would just be given its money back, and these would be treated

as if they were 'interest free loans'. But surely the reason the Common Good paid for them was because the Town Council couldn't? And if the Town Council couldn't spend its own money on them, it couldn't borrow the money either, interest free or not.

Remember that the trustees of the Common Good were 'required' to get a reasonable return on this money, if they did not then they would not be acting in the best interests of the Common Good. So the Common Good needed to get more than its money back. You might reasonably think that the Common Good should have got back the 'market value' of the properties at the time CDC 'took them over', or alternatively is due interest on the 'loans' made to the Town Council and then to CDC.

However CDC decided to give the Common Good the original cost of £400 for Wilson Street, not the £3,500 which it was sold for, £32,000 for School Street and £3,200 for Lade Street, which is what it had cost.

The Common Good was to be paid £35,600 by CDC to finish off these matters. If the Common Good was paid the 'market value' or been given the interest on the 'loans' it could have been a lot more.

The other issue in Jimmy Gordon's report was that the Common Good didn't own the ground where the carpark was situated. The report agreed that all of the costs of construction were paid by the Common Good, and all of the running expenses were paid by the Common Good from 1928, when it opened, right up to the £49,000 Common Good from 1928, when it opened, right up to the £49,000 paid in the year to March 1993.

However, on the basis that it didn't own the ground, the Common Good was to get no more income from the carpark.

Jimmy Gordon, Bob Hunter and Bernard Devine, the Chief Executive had all seen the opinion of the legal Counsel on this, but no-one else was allowed

to see it.

There are some things that the officers of CDC didn't need to let even the members see, and this is called 'exempt information' and it is laid down in the 'rules' of how CDC functions. However, members can still get this information under 'common law' on the basis of a 'need to know' to do their jobs properly. The job can be as a member of the Council or as a trustee of the Common Good.

Tom Marshall and Richard Wilkinson asked to see the opinion and were 'knocked back' by the JBB trio. They complained about it, but it didn't do any good.

The Community Council informed Jimmy Gordon that it considered that a contract existed in 1927 which gave the Common Good the rights to the revenue from the carpark. Subsequently Jimmy writes a letter about the 'contract in 1927' in which he states 'I did not mention it because in my view there wasn't one'.

Note that there is nothing about what the legal Counsel thought about this; he wasn't even asked about it. As we will see next week, the legal Counsel's opinion doesn't mention that the Common Good shouldn't continue to get the income from the carpark. The JBB trio made this bit up!

The Common Good was charged with £1,150 for the advice and consultation of the legal Counsel.

So, where are we now? The Common Good had paid over £83,000 towards the carpark repairs and improvements but is not to get any income from it. It is to get £35,600 back for the old properties. It is early 1994.

Jimmy Gordon subsequently took early retirement and was replaced by Ian Mackay as the 'chief legal officer' of CDC.

Next week: David and the auditors get up to a bit of 'creative accounting' in the Common Good Fund.

Largs Common Good - Part 4

So, the Common Good had spent over £83,000 on repairs and upgrading of the carpark and was not to get any income from it.

But, wait a minute, surely the trustees can't allow that to happen? If the Common Good doesn't get a 'return' on over £83,000, the trustees (all of the Council) would be in breach of their legal duties as trustees.

Bernard Devine decides that the carpark income and expenses should be put into a 'suspense account' until it is decided what to do, and eventually CDC decides to 'give' the net income from the carpark to the Common Good. This is despite the Common Good being entitled to the income anyway.

In the year to 31 March 1994 the Common Good should have been given the £35,600 for the properties at Wilson Street, School Street and Lade Street. The 'gift' of the net income from the carpark should have been paid for that year as well, if not the actual income from the carpark being in the Common Good as of right.

But what was in the accounts for that year?
Nothing.

An objection was sent to the auditor at the Accounts Commission, Graham Potter, firstly on the basis of the missing payment for the properties, and also for the failure to give the income of the carpark to the Common Good, as an absolute right, not as a 'gift' from CDC. He agreed that an 'adjustment' for the £35,600 would be made before the accounts were finalised, but ducked the issue on the carpark income. You might think that any reasonable auditor would have looked at the opinion of legal Counsel from 1993 at this point, but maybe Graham Potter is not a reasonable auditor.

So let's have a look at the accounts for the year to 31 March 1995.

These were a bit weird. If CDC had made the adjustment for the £35,600 in the previous year then certain figures in the accounts would be £35,600 more than the draft ones for the previous year, but they were £4,400 less! What had happened here? Someone had put through another adjustment for £40,000 'the other way round' to cover it up. David Nibloe of CDC Finance got quite annoyed when this was suggested to him.

Another objection was sent to Graham Potter about the carpark income, but only a very sketchy objection about this £40,000 cover-up, so he wouldn't know precisely what the objection was cover-up, so he wouldn't know precisely what the objection was about before our meeting.

Remember a couple of weeks ago when I told you about the Common Good possibly being 'in the red' in 1983, that there were two 'accounts', capital and revenue? Well, you cannot willy-nilly move things from one to the other. Some of this is specifically against the 'rules' UNLESS approved by the Secretary of State for Scotland. The Secretary of State at this time was Michael Forsyth.

CDC had paid the £35,600 to the 'capital' of the Common Good, as should have been the case, but then transferred £40,000 of costs into the 'capital' from the 'revenue' to offset against the £35,600. This was confirmed by Graham Potter and the audit manager, John Clayton, knew about this. They weren't told (then) that this was illegal for a reason which will become apparent soon. If CDC and the auditors are going to back-date a cover-up transaction, we needed to make it a wee bit more difficult for them to back-date the approval to make it legal!

Graham Potter also provided information about the 'secret' opinion of the legal Counsel, which no-one else could see at that point, and stated:

'The (legal) Opinion concluded that the land on which the car park was situated was owned by CDC and not the (Common Good) Fund. CDC therefore took the view that the Fund was not

entitled to the revenue generated by the car park'.

So, this was CDC's view, not the view of the legal Counsel. Very interesting!

He also went on to say that 'there is a possibility that there was a verbal contract in 1927... However...it has not been possible to obtain any evidence to support the nature of any verbal contract'. Any evidence? Graham Potter had been given plenty of evidence by then and got even more after this.

However what he didn't mention was a sentence written by the legal Counsel when answering a question about whether the Common Good was entitled to lay claim to the ground on which the carpark was built:

'The expenditure on the car park and treatment of the revenue therefrom is consonant (in agreement) with the transfer to the common good fund of the profits (the income) though not necessarily the transfer of the subjects (the ground)'. Bracketed words added by me for clarity of meaning.

So, although not directly asked the question, legal Counsel agreed that the 'profits' were legally those of the Common Good, presumably through a contract in 1927, exactly as the Community Council had told Jimmy Gordon in November 1993.

It seemed now that Graham Potter had not taken a fully objective view of matters, and had merely regurgitated what he had been told at Cunninghame House, presumably by those most interested in keeping quiet everything that was in the opinion of the legal Counsel. It also now appeared that not only

were the senior officers of CDC involved in a suppression of this information, but that the auditor was involved in it as well.

However the Common Good got the net income from the carpark for both 1993/4 and 1994/5 in the year to March 1995, based on the agreement of CDC to 'give' it to the Common Good. So up to then the Common Good was not actually 'out' any money.

Graham Potter probably thought that all of this nonsense about the Largs Common Good was finally finished and would go away. He had another thing coming!

More research took place, especially on the law of contract and on local government accounting. Contact was made with the Scottish Office which considered that if there were issues of criminal illegality, such as a deliberate misrepresentation which resulted in a loss to the Common Good, they were matters for the Police. The Procurator Fiscal's Office also considered that the Police should be informed. We needed now to wait for the appropriate time.

Donald Dewar became Secretary of State for Scotland in May 1997.

Next week: Conspiracy, fraud and theft.

Largs Common Good - Part 5

Donald Dewar became Secretary of State for Scotland in May 1997.

Objection was lodged against the NAC accounts for the year to 31 March 1997. Copies of this objection went to Donald Dewar, Brian Wilson, the Police, the Procurator Fiscal as well as the usual

suspects at Cunninghame House, and the local NAC councillors, Margaret Highet, Bobby Rae and Richard Wilkinson.

The cover-up £40,000 transaction was objected to again as being illegal. Graham Potter, the auditor, refers to the 'rules' relating to the accounting by CDC to try to justify this, but he used the original 'rules' from 1975. These were amended in 1987. The transaction in 1994 was illegal, and it was now quite unlikely that Donald Dewar would be prepared to back-date approval on behalf of Michael Forsyth to make it legal.

Graham Potter was not a happy chap when this was pointed out to him. David Nibloe then at CDC, John Clayton, the audit manager, and he all knew about this transaction. He did not deny that it was illegal but said 'Even if there is substance to your assertion...' and makes up another excuse to do nothing.

CDC had agreed to 'gift' the revenue from the carpark to the Common Good, but it was not done in 1996. When CDC ceased and became NAC, all of the obligations of CDC were transferred to NAC in 1996, so the 'gift' of the net profits should still have been made not only in 1996 and but also in 1997. No payment was made, so the Common Good had now been shortchanged by about £100,000.

However, despite this, the Common Good still has a right to the income from the carpark from 1927, and continuing denial of this by CDC and now NAC was a criminal act of fraud and the results of this were theft.

The accounting for the repairs to Routenburn Clubhouse also got messed-up, and this was reported as part of the objection.

As a further issue, it also appeared that the audit by the Accounts Commission did not fully comply with how it was supposed to be done for Common Good Funds.

Graham Potter was in a difficult position. He, David Nibloe and John Clayton were all caught being implicated in an illegal cover-up transaction, which he couldn't deny and couldn't fix. Having transaction, which he couldn't deny and couldn't fix. Having misinterpreted the opinion of legal Counsel in a previous year, he was unlikely to be able to change his mind about it now. He was not happy to be told his audit was inadequate, since this is how it had always been done.

And so he did nothing (as usual).

When Bobby Rae became a councillor at NAC he had a shot at trying to find out about the carpark issue, and because he was copied on the objection to the 1997 accounts wrote to tell me what happened. It seems that Bernard Devine had a few words with Jimmy Clements, the Leader of NAC, and Jimmy was of the view that the entire matter was closed. Was it? Well, we'll see about that. You might wonder now if any of the members of CDC, and NAC, were or are involved in the ongoing illegal activities, or their cover-up, at Cunninghame House.

Objection was lodged against the 1998 accounts, and it is from this letter that the Largs and Millport Weekly News printed extracts on 19 March 1999.

Copies were sent to the same people as the previous year, with the addition of Ian Mackay, the chief legal officer at NAC, and the Chairman of the Accounts Commission.

Because, in the previous year, the illegalities had been notified to the auditor and to NAC and nothing had been done, a whole

new load of offences had now occurred. Since no remedial action had been taken there was now continuing illegality, which is a matter for the Secretary of State.

The basic objections were still the same, but were made even more specific:

1. The illegal cover-up transaction for £40,000 had not been fixed;
2. The transfer of the income from CDC/NAC had not been made for 3 years and the Common Good had now been shortchanged by about £150,000;
3. Irrespective of point 2, above, the Common Good had a right to the income from the carpark, and that 'right' is an asset of the Common Good. Officers of CDC and NAC had withheld information from the trustees and provided misinformation about this. If they agreed between them to do it they were all guilty of conspiracy as well as fraud;
4. Failure to give the Common Good the income from the carpark as a 'right' was theft;
5. Some of the income from Haylie and from Routenburn had been missed out;
- 6 and 7. The accounting for the repairs to Routenburn had been messed-up;
8. The audit was inadequate; and
9. The accounts of the Largs Common Good Fund were inadequate.

Graham Potter ducked the whole thing, as usual. While all of this was on the go, Bob Hunter took early retirement. What a double surprise!

And now here we were, almost right up-to-

date, in the middle of February 1999.

Well where do we go from here?

All of the North Ayrshire Councillors voted-in on 6 May will be trustees of the Largs Common Good Fund. With the publication of these articles over the past 5 weeks, none of them can plead ignorance of the issues. As trustees they are legally required to do 'the best' for the Common Good, and this is more onerous in law than any of their functions as councillors.

If they don't carry out the duties of trustees adequately they can all be held liable for the results, and may also be removed as trustees by the Sheriff Court.

The operation of the Largs Common Good Fund since 1975 has been catalogue of financial and legal mismanagement.

The first duty of the new trustees should be to get the Common Good its money back. Up to the end of March 1999 this will probably be over £200,000. This is a right of the Common Good, from 1927, not as a 'gift' by the Council. This right continues today.

Of the original JBB trio who are implicated in the suppression of information from 1993 there is only one 'B' left - Bernard Devine.

Jimmy Gordon, Bernard Devine and now Ian Mackay have all had legal training. They knew what they were doing. There may be an excuse in the cases of some officers or members due to the complexities of the legal issues, but it is hard to justify their past and continuing actions, and also those of Bob Hunter.

Graham Potter is implicated up to his back teeth by allowing all of this to go on. If he can't or won't do a proper audit, then we

need to get another auditor. The Chairman of The Accounts Commission should take this matter in hand now.

Donald Dewar's troops in the Labour Party should wonder, with Jimmy Clements' involvement in 1996, whether the controlling group at NAC have anything to do with an attempt to cover this whole thing up.

Donald's other troops in the Scottish Office (or maybe they will be Eck's troops by then) may like to consider starting an enquiry. After 'Watergate' we had 'Monklandsgate'. What about 'The Carpark Gate'?

This is not nearly over. There is still a long way to go to get justice and our money back.

So, what could you do over the next week? If canvassed by a candidate for the Council elections, ask: 'What are YOU going to do about the Largs Common Good Fund?' If you get an interesting reply, please let me know.

Depending on what happens over the next few months, it may be an idea to have an examination of the NAC accounts for 1999 (in about September) by the beneficiaries of the Largs Common Good (everyone in Largs). Subsequently 'loads' of individual objections could be lodged against them with the auditor (whoever that happens to be then), who is obliged to have a meeting for each objection. Buses could be run for these. Watch this space!

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