

ARGYLL & BUTE COUNCIL

Internal Audit Section

INTERNAL AUDIT REPORT

CUSTOMER DEPARTMENT	CROSS CUTTING
AUDIT DESCRIPTION	RISK BASED AUDIT
AUDIT TITLE	COMMON GOOD PROPERTY
AUDIT DATE	FEBRUARY 2017

2016/2017



1. BACKGROUND

This report has been prepared as a result of the Internal Audit review of Common Good Property as part of the 2016/17 Internal Audit programme.

In 1995 with the Dissolution of the District councils, Argyll and Bute Council took over the administration of the Common Good Funds falling within its geographical area. The Common Good Funds do not belong to the Council, however, administrative support is provided by the Council, and the elected members for the area currently oversee Common Good Funds. Legally, the Members are in a similar position to Trustees. Argyll and Bute Council is responsible for the administration of 4 active Common Good funds namely Oban, Campbeltown, Rothesay and Dunoon. The Council administers each of the separate Common Good Funds which can include land and buildings as well as cash.

In June 2014 the Community Empowerment Act was introduced to the Scottish Parliament and the Bill was passed in June 2015 and received Royal Assent in July 2015. The Act has 9 parts of which part 8 relates to obligations surrounding Common Good Property. The Act aims to increase transparency about the existence, use and disposal of common good assets, and to increase community involvement in these processes. It requires Councils (as trustees) to establish and maintain a common good register, listing all common good property, and to make this publicly available free of charge on a website. When establishing this register, Community Councils and other community bodies (whether or not formally constituted) must be invited to comment on it as a way to highlight any items they believe should be included or omitted. The Council must also consult on any decisions to sell or change the use of common good property, and the public must be informed of any decisions.

2. AUDIT SCOPE AND OBJECTIVES

The main objectives of the audit are to review the Councils preparedness to meet its obligation in regard to Common Good Property as outlined in Part 8 of the 2015 Communities Empowerment Act (Scotland) 2015.

3. RISKS CONSIDERED

- Reputational risk to the Council
- Register of Common Goods Assets is not in place
- Register not available on Council website
- Consultation with local community groups not in place
- Failure to report progress on meetings obligations within the Act
- Insufficient resources to meet obligations within the Act

4. AUDIT OPINION

The level of assurance given for this report is Substantial

Level of Assurance	Reason for the level of Assurance given
High	Internal Control, Governance and the Management of Risk are at a high standard with only marginal elements of residual risk, which are either being accepted or dealt with. A sound system of control is in place designed to achieve the system objectives and the controls are being consistently applied.
Substantial	Internal Control, Governance and management of risk is sound, however, there are minor areas of weakness which put some system objectives at risk and where specific elements of residual risk that are slightly above an acceptable level and need to be addressed within a reasonable timescale.
Reasonable	Internal Control, Governance and management of risk are broadly reliable, however although not displaying a general trend there are a number of areas of concern which have been identified where elements of residual risk or weakness with some of the controls may put some of the system objectives at risk.

Limited	Internal Control, Governance and the management of risk are displaying a general trend of unacceptable residual risk above an acceptable level and system objectives are at risk. Weakness must be addressed with a reasonable timescale with management allocating appropriate resources to the issues raised.
No Assurance	Internal Control, Governance and management of risk is poor, significant residual risk exists and/ or significant non-compliance with basic controls leaves the system open to error, loss or abuse. Residual risk must be addressed immediately with management allocating appropriate resources to the issues.

This framework for internal audit ratings has been developed and agreed with Council management for prioritising internal audit findings according to their relative significance depending on their impact to the process. The individual internal audit findings contained in this report have been discussed and rated with management.

A system of grading audit findings, which have resulted in an action, has been adopted in order that the significance of the findings can be ascertained. Each finding is classified as High, Medium or Low. The definitions of each classification are set out below:-

High - major observations on high level controls and other important internal controls. Significant matters relating to factors critical to the success of the objectives of the system. The weakness may therefore give rise to loss or error;

Medium - observations on less important internal controls, improvements to the efficiency and effectiveness of controls which will assist in meeting the objectives of the system and items which could be significant in the future. The weakness is not necessarily great, but the risk of error would be significantly reduced if it were rectified;

Low - minor recommendations to improve the efficiency and effectiveness of controls, one-off items subsequently corrected. The weakness does not appear to affect the ability of the system to meet its objectives in any significant way.

5. FINDINGS

The following findings were generated by the audit:

- Part 8 of the Community Empowerment Act sets out the obligations that Councils should meet in regard to use and disposal of Common Good assets, and to increase community involvement in these processes. It was evidenced from correspondence that Scottish Ministers have advised that in accordance with their obligation to consult with local authorities, community councils and

other community bodies, a twelve-week consultation is intended to take place subsequent to the local elections taking place in 2017. Scottish Ministers have further confirmed that the publication of guidance will take place subsequent to the completion of this consultation period, with the exact timing taking into account the volume and nature of responses to the consultation. Scottish Ministers have committed to keeping local authorities and community bodies fully informed so opportunity for preparation for the new procedures is ensured. The main requirements of part 8 are as follows:

- Each Local authority must establish a register of property which is held by the Authority as part of the Common Good.
 - Before establishing the register each Local Authority must publish a list of property which it proposes to include within the register in a way determined by the local Authority and on publishing the list the Local Authority must notify local Community bodies.
 - On establishing a Common Good register Local Authorities must give regard to any representation made by Local Community bodies
 - Local Authorities must make arrangements to enable members of the public to inspect free of charge its Common Good register at reasonable times and at such places as the Authority may determine.
 - Make the Common Good register available on the Authorities website or by electronic means to members of the public.
 - Before making any decisions to dispose of or change the use of a property the Local Authority should publish details about the disposal in a way determined by the local Authority
 - On publishing details about a proposed disposal the local Authority should notify relevant Community bodies that are known by the Authority to have an interest in the property
 - have regard to any guidance issued by Scottish Ministers in relation to the management and use of property that forms part of the common good
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- There are currently 4 active Common Good funds within Argyll and Bute namely :
 - Oban Common Good Fund

- Campbeltown Common Good Fund
- Dunoon Common Good Fund
- Rothesay Common Good Fund

The funds include land and buildings as well as cash and shares, with fund values varying. It was evidenced that information on the funds, and some detail of the assets of the funds are available on the Council's website, along with information on how to contact officers who administer the funds should further information be sought.

A review of the preparedness of the Council to meet the obligations as outlined above:

- It was noted that the Council formed a working group in 2015 to consider the implementation of the Community Empowerment (Scotland) Act 2015. A review of the membership noted that appropriate representation from such areas as Community Planning, Business Improvement, Facility services and Governance and Law. Representatives from Community Partners are also on the group. The remit of the group includes:
 - Consideration of amending/adopting policies and procedures in relation to the Act.
 - Consideration of engagement of local communities/groups in relation to the implementation of the Act.
- A Benchmarking exercise was carried out with 5 other Councils to ascertain the actions those Councils were currently undertaking in regard to implementation of the Act. From this exercise it was noted that:
 - One Council has completed an update of their Common Good register following a complete audit of their title deeds records; extensive consultation with local communities; and a reconciliation of internal Finance and Asset Management systems.
 - Three councils indicated they were currently undertaking an ongoing exercise to ensure that their Common Good registers were both up to date and complete.
 - One Council replied that they had no common good property.

- One Council also responded that no work will commence until final guidance is received.

- Argyll and Bute officers have indicated that they are awaiting final guidance before commencing detailed work. It was evidenced from minutes of the working group that consideration has been given to the requirements of Part 8 the Act, and there was an acknowledgement that additional resources may be required in order to implement these requirements. Some preparatory work has taken place in respect of existing property, however, officers have advised that this will not be completed until final guidance is received.

- It is evidenced that arrangements to comply with some parts of the Act are further progressed than preparation for compliance with Part 8 and that an action tracker is in place which outlines tasks, timeline and responsible officers. Recognising this variance in progress, officers have indicated that, upon receipt of the guidance, further details relating to the implementation of Part 8 will be added to the Group's action tracker to ensure the Council is best placed to meet any requirements.

- It was noted that there was no evidence of a risk register being in place in regard to implementation of part 8 of the Act.

- Consideration should be given by Estates as a result of the requirements of part 8 of the act in current procedures/process in relation to asset disposals, and to updating the property maintenance database Concerto once implementation has been completed.

6. CONCLUSION

This audit has provided a substantial level of assurance as governance and management of risk is deemed sound. Upon receipt of guidance from Scottish Government and allowing time of management action, internal audit will undertake follow up activity to assess progress within any stipulated requirements. There were no actions identified as a result of the audit.

Thanks are due to the Governance and Law staff and management for their co-operation and assistance during the Audit and the preparation of the report.



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