

Public Document Pack

Argyll and Bute Council

Comhairle Earra-Ghàidheal Agus Bhòid

Executive Director: Douglas Hendry



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23 March 2023

NOTICE OF MEETING

A meeting of the **OBAN COMMON GOOD FUND** will be held **MICROSOFT TEAMS** on **THURSDAY, 30 MARCH 2023 at 2:00 PM**, which you are requested to attend.

Douglas Hendry
Executive Director

BUSINESS

1. **APOLOGIES**
2. **DECLARATIONS OF INTEREST**
3. **MINUTES OF MEETING**
 - (a) Minutes of Oban Common Good Fund - 22 November 2022 (Pages 3 - 8)
4. **REPORT ON CHARITIES REGISTRATION**

Report by Executive Director with responsibility for Governance (Pages 9 - 12)
- E1 5. **INCOME AND EXPENDITURE REPORT** (Pages 13 - 14)
- E1 6. **END OF PROJECT MONITORING**
 - E1 (a) McDougall of Dunollie Preservation Trust (Pages 15 - 16)
 - E1 (b) Oban FM (Pages 17 - 18)
 - E1 (c) Oban Gaelic Choir (Pages 19 - 22)
 - E1 (d) Oban Mountain Rescue (Pages 23 - 26)
 - E1 (e) Oban Pride (Pages 27 - 30)
- E1 7. **NEW APPLICATIONS** (Pages 31 - 32)
 - E1 (a) Highlands & Islands Music Dance Festival (Pages 33 - 56)
 - E1 (b) Lorn and Oban Healthy Options (Pages 57 - 138)
 - E1 (c) Oban War Memorial Centenary Group (Pages 139 - 150)

- E1 (d) Port of Oban Cruise Group (Pages 151 - 172)
E1 (e) Soroba Community Enterprise Ltd (Pages 173 - 182)

8. DATE OF NEXT MEETING

The Trustees will be asked to pass a resolution in terms of Section 50(A)(4) of the Local Government (Scotland) Act 1973 to exclude the public for items of business with an "E" on the grounds that it is likely to involve the disclosure of exempt information as defined in the appropriate paragraph of Part I of Schedule 7a to the Local Government (Scotland) Act 1973.

The appropriate paragraph is:-

- E1 Paragraph 6** Information relating to the financial or business affairs of any particular person (other than the authority).

Oban Common Good Fund

Councillor Kieron Green
Councillor Jim Lynch

Councillor Andrew Kain (Chair)
Councillor Luna Martin

Contact: Melissa Stewart, Governance Officer, Kilmory, Lochgilphead (Tel. No. 01546 604331)

**MINUTES of MEETING of OBAN COMMON GOOD FUND held by MICROSOFT TEAMS
on TUESDAY, 22 NOVEMBER 2022 (RECONVENED ON MONDAY, 28 NOVEMBER
2022)**

Present: Councillor Andrew Kain (Chair)
Councillor Kieron Green Councillor Luna Martin(22 November
Councillor Jim Lynch meeting only)

Attending: Melissa Stewart, Governance Officer (22 November meeting only)
Shona Barton, Governance Manager (28 November meeting only)

1. APOLOGIES

Apologies were intimated on behalf of Marri Malloy and Provost Margi Campbell.

2. DECLARATIONS OF INTEREST

Councillor Jim Lynch declared a non-financial interest Item 7g as he is a member of the Bid4Oban Board. He left the meeting during discussions with Bid4Oban and again when the application was considered.

3. MINUTES OF MEETING

(a) **Minutes of Oban Common Good Fund - 3 August 2022**

The minute of the Oban Common Good Fund 3 August 2022 were approved as a correct record.

4. AUDITED ACCOUNTS 2021/22

The Trustees considered the audited annual accounts of the Oban Common Good Fund for 2022/22.

Decision

The Trustees approved the annual accounts.

(Ref: Financial Statement by Simmers & Co dated 31 March 2022, submitted)

The Trustees resolved in terms of Section 50(A)(4) of the Local Government (Scotland) Act 1973 to exclude the press and public for the following items of business on the grounds that it was likely to involve the disclosure of exempt information as defined in Paragraph 6 respectively of Part 1 of Schedule 7A to the Local Government (Scotland) Act 1973.

Councillor Lynch, having declared an interest in the application by Bid4Oban, left the meeting at this point and took no part in the discussion.

The Trustees had invited Mr Andrew Spence, Bid4Oban, to attend the meeting to speak to the funding application submitted. The Trustees heard from Mr Spence and took the opportunity to raise any questions.

Mr Spence left the meeting and Councillor Lynch re-joined.

E1 **5. INCOME AND EXPENDITURE REPORT**

A financial statement detailing the current position of investment transaction for the period 1st April 2022 – 31st October 2022 was considered.

Decision

The Trustees noted the income and expenditure report.

(Ref: Report by Simmers & Co for period ending 31 October 2022, submitted)

E1 **6. END OF PROJECT MONITORING**

(a) **Oban Bowling Club**

The Trustees were invited to consider the End of Project Monitoring Form from the Oban Bowling Club..

Decision

The Trustees noted the end of project report.

(Ref: End of Project Monitoring Form, submitted)

(b) **Oban Community Council**

The Trustees were invited to consider the End of Project Monitoring Form from the Oban Community Council.

Decision

The Trustees noted the end of project report.

(Ref: End of Project Monitoring Form, submitted)

(c) **Oban Winter Festival**

The Trustees were invited to consider the End of Project Monitoring Form from the Oban Winter Festival.

Decision

The Trustees noted the end of project report.

(Ref: End of Project Monitoring Form, submitted)

E1 7. NEW APPLICATIONS

(a) Family Mediation Argyll and Bute

The Trustees considered the application submitted by Family Mediation Argyll and Bute.

Decision:

It was unanimously agreed to award the full amount applied for of £1780.30.

(Reference: application submitted by Family Mediation Argyll and Bute)

(b) MacDougall of Dunollie Preservation Trust

The Trustees considered the application submitted by MacDougall of Dunollie Preservation Trust.

Decision:

It was unanimously agreed to award the MacDougall of Dunollie Preservation Trust the full grant applied for of £885.00.

(Reference: Application by MacDougall of Dunollie Preservation Trust, submitted)

(c) Oban Gaelic Choir

The Trustees considered an application submitted by Oban Gaelic Choir.

Decision:

The Trustees unanimously agreed to pay £250 towards expenses incurred by the Oban Gaelic Choir at the event in St John's Cathedral on 25th November 2022.

(Reference: Application by Oban Gaelic Choir submitted)

(d) Oban High School Pipe Band

The Trustees considered an application made by Oban High School Pipe Band.

Decision:

The Trustees unanimously agreed a contribution of £1300.

(Reference: Application by Oban High School Pipe Band submitted)

(e) **Oban Mountain Rescue**

The Trustees considered an application made by Oban Mountain Rescue.

Decision:

The Trustees continued the application as they did not feel that they had sufficient information on which to base their decision and asked the Governance Officer to contact the Group regarding their financial commitments.

(Reference: Application by Oban Mountain Rescue submitted)

(f) **Oban Winter Festival**

The Trustees considered an application made by the Oban Winter Festival.

Decision:

After careful consideration by the Trustees the application was rejected as it did not meet the application distribution policy or criteria.

(Reference: Application by Oban Winter Festival, submitted)

(g) **Bid 4 Oban**

Councillor Jim Lynch left the call as he had earlier declared a non-financial interest in the application by Bid4Oban.

The Trustees heard earlier in the meeting from Andrew Spence of Bid4Oban regarding the development plan and expenditure of this year's Christmas Lights. The infrastructure to allow installation of lights has exceeded its lifespan and capital investment to allow the catenary wiring to be replaced and extended is necessary. The new wiring if maintained properly should last between 15 – 20 years and should reduce the annual costs of festive lighting.

Decision:

After careful consideration the Trustees unanimously agreed to award Bid4Oban £10,000 towards the capital investment.

(Reference: application submitted by Bid4Oban)

8. DATE OF NEXT MEETING

The Trustees agreed to hold their next meeting on Thursday 30th March at 2.00pm by TEAMS.

9. OBAN COMMON GOOD FUND MEETING RECONVENED

The Trustees reconvened on 28th November 2022 to consider the continued application from Oban Mountain Rescue, having now received the further information that was requested regarding their financial commitments.

Decision

The Trustees agreed to award the full amount of £4737.06 towards the purchase of five radio receivers.

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ARGYLL AND BUTE COUNCIL**OBAN COMMON GOOD FUND****CUSTOMER SERVICES****30 MARCH 2023**

**PROPOSED DE-REGISTRATION OF OBAN COMMON GOOD FUND FROM
THE CHARITIES REGISTER**

1.0 EXECUTIVE SUMMARY

Notification has been received from OSCR of the intention to de-register the Oban Common Good Fund with effect from 31 March 2023.

OSCR base their decision on their assessment of whether the charity is a 'body' and whether the charity only has charitable purposes. They conclude that the Oban Common Good fund is not a 'body' with a constitution distinct and separate from the Council and that while the fund may be used for charitable purposes, it is not confined to doing so, taking the view that the single requirement for administering common good funds is in "having regard to the interests of the inhabitants of the area to which the Common Good formerly related".

While the decision can be challenged, the reasons for initially registering the Fund as a charity were to maximise the return on investment generating more income for distribution. The benefits previously gained are no longer applicable meaning there is no direct financial benefit and therefore there do not appear to be any grounds to challenge this decision. On this basis it is suggested that the Trustees note the decision to de-register, and consider whether in light of this they wish to review the application and distribution criteria.

ARGYLL AND BUTE COUNCIL

OBAN COMMON GOOD FUND

CUSTOMER SERVICES

30 MARCH 2023

PROPOSED DE-REGISTRATION OF OBAN COMMON GOOD FUND FROM THE CHARITIES REGISTER

2.0 INTRODUCTION

2.1 This report advises trustees of the notice of an intention to remove the Oban Common Good Fund from the Scottish Charity Register, it being the view of OSCR, who regulate such matters, that the fund does not meet the charity test.

3.0 RECOMMENDATIONS

3.1 To note the notice for removal from the Scottish Charity Register that will come into effect at the end of the current financial year and to consider whether to make changes to the application and distribution criteria as a result of the de-registration.

4.0 DETAIL

4.1 OSCR have provided advance notice to Argyll and Bute Council of their intention to remove the Oban Common Good Fund from the Scottish Charity Register, and that they intend for this date of removal to take effect from 31 March 2023 to coincide with the end of the financial year.

4.2 OSCR base the charity test on the following criteria:

1. It's purpose consist only of one or more of the charitable purposes listed in section 7(2) of the 2005 Act; and
2. It provides (or, in the case of an applicant provides or intends to provide) public benefit in Scotland or elsewhere.

4.3 While the Oban Common Good Fund was listed on the current Charities Register on 1 April 2006, Oban Common Good Fund was initially registered with HMRC as a charity in 1992 most likely to benefit from ACT (advance corporation tax) and thereby maximise the funding available to provide support to local charities and voluntary groups. These benefits no longer apply and as there is no direct financial effect on the investment fund, there does not appear to be any reason to challenge the de-listing.

- 4.4 In making the determination, OSCR took account of the purpose of a Common Good Fund, including the vesting of common good property in the newly created unitary authorities with effect from 1 April 1996. They noted that this arrangement does not involve the creation of a trust of any other form of body that is separate in identify from the Council, reaching the view that Oban Common Good Fund is not a 'body' with a constitution distinct and separate from the Council that is capable of being entered in the Register.
- 4.5 OSCR further assessed whether the Charity only has charitable purposes and on this point concluded that while the funds were being allocated to charitable purposes, it is not confined in doing so and therefore it does not have purposes that consist only of one or more of the charitable purposes set out in Section 7(2) of the Charities and Trustee Investment (Scotland) Act 2005.
- 4.6 It appears that there is a consistent approach by OSCR in other local authority areas with regard to de-registering their Common Good Funds based on the same test.
- 4.7 In de-registering the Oban Common Good Fund will no longer require to prepare annual accounts in accordance with the Charities SORP (Statement of Recommended Practice).

5.0 CONCLUSION

- 5.1 There is no clear benefit in terms of appealing the decision to remove the Oban Common Good Fund from the Register of Charities in Scotland given that the financial benefits that existed are no longer relevant. It is recommended that the Trustees note the correspondence from OSCR and consider whether they wish to carry out a review the current application criteria and distribution guidance.

6.0 IMPLICATIONS

- 6.1 Policy – The council does not have a policy of registering common good funds with OSCR, the Oban funding being the only fund that had been registered in that way.
- 6.2 Financial – None. The benefits initially sought in terms of protecting the investment no longer apply.
- 6.3 Legal – None
- 6.4 HR - None
- 6.5 Fairer Scotland Duty:
6.5.1 Equalities – protected characteristics - None
6.5.2 Socio-economic duty – none
6.5.3 Islands – none
- 6.6 Climate Change – none
- 6.7 Risk - None
- 6.8 Customer Service - The current distribution guidance and

application criteria have proved to be an efficient way of dealing with different types of applications. Removal of the charitable status may open up the fund to other applicants.

Douglas Hendry
Executive Director with responsibility for Governance

Policy Lead – Alastair Redman
10 March 2023

For further information contact: David Logan, Head of Legal & Regulatory Support, Kilmory, Lochgilphead – 01546 604322

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