Local Government and Communities Committee

Common Good Property and Funds

Submission from Aberdeen City Council

1. Are the common law rules which define common good property adequate?

   **Answer** – The common law rules defining common good can create elements of uncertainty for local authorities when attempting to manage their property portfolios. Whether a property is or is not common good can only be determined by researching the particular facts and circumstances of each and every acquisition and its subsequent use. Reference would have to be made to common good account records, title deeds, statutes, Council Minutes and Archives, other historical records and case law.

2. Do you think the record keeping of common good property and assets held by local authorities could be improved?

   **Answer** – Yes. However due to the inadequacy of the rules relating to the definition of common good (as stated above), it can be difficult to keep a separate/bespoke record or register of assets which can be classified as common good property.

3. Is there enough openness and direct engagement with local communities on common good property and funds and the use to which common good property and assets are put?

   **Answer** –

   3.1 **Common Good Property** - The Community Empowerment (Scotland) Act 2015, in section 104 (not yet in force), introduces the requirement to consult with community councils or a community body that is known to have an interest in the property, when proposing to disposing of common good land or changing the use of common good property. The local authority must have regard to any representations made.

   It is anticipated that section 104 will increase transparency in respect of the use to which common good property is put. Whilst it is recognised that direct engagement with communities is important, ultimately the local authority is responsible for the management of common good property and the requirement is only to “have regard” to representations made. It would be useful if the guidance published under section 105 of the 2015 Act explains how local authorities may demonstrate that they have had sufficient regard to representations made.

   3.2 **Common Good Funds** - At present, the use to which common good funds are put is transparent because expenditure of common good funds is published in Council or committee minutes.
4. **Are details of common good property and assets and income generated by their sale clear and transparent?**

   **Answer** – The provisions introduced by s.104 of the Community Empowerment (Scotland) Act 2015 will increase transparency regarding the sale of common good property, subject to the requirements of commercial confidentiality, with the introduction of the requirement to consult with community councils and any community body that is known by the authority to have an interest in the property.

5. **Any other issues relating to common good property, assets and funds which you wish to bring to the attention of the Committee?**

   **Answer** – A legislative definition of the purposes for which common good funds may be used should assist local authorities in administering the common good fund.