Local Government and Communities Committee

Common Good Property and Funds

Submission from Alasdair McEachan

- Are the common law rules which define common good property adequate?

No. It can be very time consuming to check the title deeds of properties. The task of looking through every title, to assess if common good or not, is a huge one. Even then there are lots of grey areas. Often we are looking for evidence of previous use which involves looking through old newspaper articles. Common good is a lawyer’s delight. Getting involved in the detail keeps us in work. But we really have bigger issues to be focusing our attention on.

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

Yes but it would cost. For the reasons stated above, it’s very hard to keep a definitive list. We have inherited imperfect records from former burgh councils. We inherited lists of common good assets at re-organisation in 1973 and 96 but these are changed as new evidence comes to light. We simply don’t have resources to trawl through all our titles to produce a definitive list. So we have to settle for a list based on best available evidence. There is a tricky issue of whether the professional time in checking all titles, to see which are common good, can be charged to common good.

- 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?

This could probably be better. We tend to report the general picture annually to committee. But more engagement means more asset management costs. Is the common good fund (if one exists) able to meet these costs?

- Are details of common good property and assets and income generated by their sale clear and transparent?

We publish accounts annually which show sales of common good assets going to common good accounts. The big issue is where properties are sold and are either not recognised as being common good or a disputed view is taken that they are not common good. This can lead to friction between the council and community bodies.
Any other issues relating to common good property, assets and funds which you wish to bring to the attention of the Committee

I think we need to have a fundamental rethink on the need to have common good at all. The concept is throw-back to the dark ages. We have chosen to provide and fund local services through the route of elected local authorities. The idea of having “nice to have” pots of money for some of our communities and not others doesn’t make sense to me. Some elected members love common good. It gives them local spend which helps them win votes. Other elected members, who don’t have any common good areas within their ward boundaries, are indifferent towards it.

The cost of administering common good assets is far greater than assets on our general services account. We tend not to recharge the full amount of this administration cost. With decreasing resources in local government it is harder to justify professional time on “nice to haves” when we are over stretched in trying to cover the essentials.

Possible solutions?

- Transfer common good assets into community trusts- the issue would be trying to correctly identify all assets. And some communities would benefit where others wouldn’t. Let the trustees determine who administers the assets on their behalf.
- Remove common good status so assets become vested in local authorities without special dedication.
- Accept common good assets stay with LA’s but properly account for the administration and upkeep costs. This seems reasonable. Why should Council resources contributed to by all taxpayers subsidise those areas with common good.

Alasdair McEachan