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PEEBLES COMMON GOOD FUND SUB-COMMITTEE WEDNESDAY, 22 NOVEMBER 2023

A MEETING of the PEEBLES COMMON GOOD FUND SUB-COMMITTEE will be held VIA MICROSOFT TEAMS on WEDNESDAY, 22 NOVEMBER 2023 at 5.00 pm.

All Attendees, including members of the public, should note that the public business in this meeting will be livestreamed and video recorded and that recording will be available thereafter for public view for 180 days.

N. MCKINLAY,
Director Corporate Governance

13 November 2023

BUSINESS		
1.	Apologies for Absence.	
2.	Order of Business.	
3.	Declarations of Interest	
4.	Minute and Action Tracker (Pages 5 - 8) (a) Consider Minute of 11 October 2023. (Copy attached.) (b) Consider Action Tracker. (Copy attached.)	2 mins
5.	Financial Monitoring Report to 30 September 2023 (Pages 9 - 26) Consider report from Director Finance & Procurement. (Copy attached.)	5 mins
6.	Victoria Park: Shelter & Toilet Facilities (Pages 27 - 34) (a) Presentation from Peebles Youth Voice. (Copy attached.) (b) Play park toilet facility.	20 mins
7.	Commercial Use of Common Good Land An update on the review of Commercial Use of Common Good Land from Director Corporate Governance.	5 mins
8.	Energy Audit of Common Good Properties	5 mins
9.	Public Profile of Common Good Sub-Committee Response from discussion held with members of the public.	10 mins

10.	Charitable De-registration of Common Good Funds (for noting) (Pages 35 - 46) Report from Director Finance and Procurement for noting. (Copy attached.)	2 mins
11.	Police Scotland Response to Funfair (for noting) (Pages 47 - 48) Copy attached.	2 mins
12.	Any Other Items Previously Circulated.	
13.	Any Other Items Which The Chairman Decides Are Urgent.	
14.	Private Business Before proceeding with the private business, the following motion should be approved:- “That under Section 50A(4) of the Local Government (Scotland) Act 1973 the public be excluded from the meeting for the following items of business on the grounds that they involve the likely disclosure of exempt information as defined in Paragraph 6 of Part 1 of Schedule 7A to the aforementioned Act.”	
15.	Private Minute (Pages 49 - 50) Consider Private Minute of 11 October 2023. (Copy attached.)	2 mins
16.	Victoria Park Lighting (Pages 51 - 54) Consider quotation for supply and installation of lighting. (Copy attached.)	10 mins
17.	Old Corn Exchange Hall Lease and Roof Repairs (Pages 55 - 58) Consider report from Director Infrastructure & Environment on new lease proposal and funding for roof repairs. (Copy attached.)	10 mins
18.	Briefing Note: Old Corn Exchange Shop (Pages 59 - 60) Consider briefing note from Tricia Hill, Estates Surveyor. (Copy attached.)	5 mins
19.	Bike Parking - Kingsmeadows Car Park (Pages 61 - 62) Consider options and quotations for the supply and installation of bike parking. (Copy attached.)	10 mins
20.	Funding Application Consider funding application from Nomad Beat. (Copy to follow.)	10 mins

NOTES

- Timings given above are only indicative and not intended to inhibit Members' discussions.**
- Members are reminded that, if they have a pecuniary or non-pecuniary interest in any item of business coming before the meeting, that interest should be declared prior to commencement of discussion on that item. Such declaration will be recorded in the Minute of the meeting.**

Membership of Committee:- Councillors R. Tatler (Chairman), D. Begg, M. Douglas, J. Pirone, E. Small, V. Thomson and G, Ramsay

Please direct any enquiries to Lynne Cuerden Tel: 01835 826527
Email: lynne.cuerden@scotborders.gov.uk

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**SCOTTISH BORDERS COUNCIL
PEEBLES COMMON GOOD FUND SUB-COMMITTEE**

MINUTES of Meeting of the PEEBLES
COMMON GOOD FUND SUB-COMMITTEE
held via Microsoft Teams on Wednesday,
11th October, 2023 at 4.00 pm

Present:- Councillors R. Tatler (Chairman), M. Douglas, J. Pirone and E. Small

Apologies:- Councillors D. Begg and V. Thomson, G. Ramsay

In Attendance:- Chief Legal Officer, Financial Analysts (G. Reid, K. Robertson), Community Engagement Officer (H. Lacon) and Democratic Services Officer (L. Cuerden)

1. **MINUTES**

There had been circulated copies of the Minute of the Meetings held on 23 August 2023 and 11 September 2023.

DECISION

AGREED the Minutes for signature by the Chair.

2. **PRIVATE BUSINESS**

DECISION

AGREED under Section 50A(4) of the Local Government (Scotland) Act 1973 to exclude the public from the meeting during consideration of the business detailed in the Appendix to this Minute on the grounds that it involved the likely disclosure of exempt information as defined in Paragraph 6 of Part I of Schedule 7A to the Act.

3. **PRIVATE MINUTES**

Members considered the Private Minute of the meetings held on 23 August and 11 September 2023.

4. **OLD CORN EXCHANGE LEASE**

Members considered a report from Estates Surveyor on applications received for the lease of the Old Corn Exchange.

The meeting concluded at 4.45 pm

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SCOTTISH BORDERS COUNCIL

ACTION TRACKER (PUBLIC BUSINESS)

PEEBLES COMMON GOOD FUND– NOVEMBER 2022 onwards

Notes:-

Items for which no actions are required are not included

NO.	MINUTE PARAGRAPH NUMBER, TITLE AND DECISION REQUIRING ACTION	DEPARTMENT	RESPONSIBLE OFFICER	OUTCOME
11 SEPTEMBER 2023				
1 FUNIDNG APPLICATION AND QUOTATION	Para 2 - AGREED to award £3,000 to Tweeddale Youth Action towards the cost of a replacement boiler in the Old Corn Exchange Hall.	Democratic Services	L.Cuerden	Payment requested to Transactions
23 AUGUST 2023				
1. FUNDING APPLICATION: INTEREST LINK	Para 5 - AGREED to award £2,000 to Interest Link to fund volunteer and group programme costs.	Democratic Services	L.Cuerden	Payment requested to Transactions
2. HAYLODGE PATH REPAIRS	Para 12 - AGREED to award £11,020.20 for Haylodge Park path repairs.	Democratic Services	L.Cuerden	
27 JUNE 2023				
1. PEEBLES CHRISTMAS LIGHTS ASSOCIATION	Para 1 - AGREED to award £3,000 to Peebles Christmas Lights Association to part finance the purchase of a replacement lighting display.	Democratic Services	L.Cuerden	Payment requested to Transactions
2. ANY OTHER BUSINESS	Para 2 - AGREED IN PRINCIPLE to award £5,000 to Peebles Highland Games for the purchase of a new marquee, on condition that other community groups were able to use it, subject to adequate insurance cover.	Elected Members	L.Cuerden	Payment requested to Transactions
23 MAY 2023				
1. KINGSMEADOWS CAR PARK BAYS	Para 5.0 - AGREED to option 2 for the marking of Kingsmeadows car park, with provision for a licensed coffee cart and mobile home/short wheel based truck bays to be factored in, with work scheduled to begin in Autumn 2023.	Infrastructure & Environment	Robert Reid	

NO.	MINUTE PARAGRAPH NUMBER, TITLE AND DECISION REQUIRING ACTION	DEPARTMENT	RESPONSIBLE OFFICER	OUTCOME
2. VICTORIA PARK – NEW LIGHTING	Para 7 - AGREED: (a) IN PRINCIPLE to start work in August 2023 subject to alternative funding being sourced (b) to add an item to the agenda of 16 August 2023 meeting to agree the programme of work	Democratic Services	L. Cuerden	On agenda for 22 November
3. TREE PLANTING IN HAYLODGE PARK	Para 8 - AGREED to request a report on a coordinated tree planting strategy for all Common Good Parks	Democratic Services	L.Cuerden	
28 FEBRUARY 2023				
2. KINGSMEADOWS CAR PARK TOILETS	Para 6.0 - (b) AGREED to add an item to the next agenda to consider a report on the running costs and regime proposal for Kingsmeadows Car Park toilets.	Democratic Services	Lynne Cuerden	Ongoing
23 NOVEMBER 2022				
2. COMMON GOOD LAND PARKING	Para 3. - AGREED: (a) to add an item to the next agenda to consider a report on the revenue from Greenside car park	Democratic Services	L Cuerden	Report from John Curry due in 2023
5. ANY OTHER ITEMS PREVIOUSLY CIRCULATED	Para 6. (a) Use of Parks under control of Peebles Common Good Fund – AGREED to (a) take the necessary action to have the matter of Common Good Land fees considered at a meeting of Scottish Borders Council; (b) include an agenda item at the next Sub-Committee meeting to review the fees charged in the past year	Democratic Services	L Cuerden	(a) On agenda for 22 November (b) Report from John Curry due 2023

MONITORING REPORT FOR 6 MONTHS TO 30 SEPTEMBER 2023

Report by Director of Finance & Procurement

PEEBLES COMMON GOOD FUND SUB-COMMITTEE

22 November 2023

1 PURPOSE AND SUMMARY

- 1.1 This report provides the details of the income and expenditure for the Peebles Common Good Fund for the six months to 30 September 2023, a full year projected out-turn for 2023/24, and projected balance sheet values as at 31 March 2024.**
- 1.2 Appendix 1 provides the projected income and expenditure position for 2023/24. This shows a projected deficit of £82,348 for the year, which is less than the previously reported surplus on 23 August 2023, as a result of an increase in the property repairs and maintenance budget.
- 1.3 Appendix 2 provides a projected balance sheet value as at 31 March 2024. It shows a projected decrease in reserves of £262,856.
- 1.4 Appendix 3a provides a breakdown of the property portfolio showing projected rental income and projected net return for 2023/24 and actual property income to 30 September 2023.
- 1.5 Appendix 3b provides a breakdown of the property portfolio showing projected property expenditure for 2023/24 and actual property expenditure to 30 September 2023.
- 1.6 Appendix 4 provides a breakdown of the property portfolio showing projected property valuations at 31 March 2024.
- 1.7 Appendix 5 shows the value of the Aegon Asset Management Investment Fund to 30 September 2023.

2 RECOMMENDATIONS

- 2.1 I recommend that the Common Good Fund Sub-Committee:**
 - (a) Notes the actual income and expenditure for 2023/24 in Appendix 1 and the revised budget for 2023/24;**
 - (b) Notes the projected balance sheet value as at 31 March 2024 in Appendix 2;**
 - (c) Notes the summary of the property portfolio in Appendices 3 and 4; and**
 - (d) Notes the current position of the Aegon Asset Management Investment Fund in Appendix 5.**

3 BACKGROUND

3.1 This report provides the Committee with financial information for the period to 30 September 2023 and projections to 31 March 2024. The report also contains a projected balance sheet for the Common Good Fund as at 31 March 2024.

4 FINANCIAL POSITION 2023/24

4.1 Appendix 1 provides details on income and expenditure for the 2023/24 financial year. The projected net position for the year is a deficit of £82,348.

4.2 Income & Expenditure – Property Income

Rental income for 2023/24 is shown in Appendices 1 & 3a, with Appendix 3a detailing the actual annual rental income by individual property. Actual income is reported on a cash basis until the year end with quarter 4 reports incorporating any annual adjustments for prepayments and accruals.

4.3 Income & Expenditure – Non-Property Related Income

- (a) The projected out-turn position shows an amount of £300 relating to interest receivable on cash held by SBC. Also included are dividends from the Common Good Funds investment in Aegon Asset Management amounting to £23,350, with the projection for 2023/24 remaining at the 5% target and the monthly distribution profile projections provided by Aegon. The position will be monitored closely with Aegon Asset Management.
- (b) Included within other income is a rebate from Aegon Asset Management of £113, which has been re-invested to purchase an additional 119 units.

4.4 Income & Expenditure – Property Expenditure

- (a) The property expenditure for 2023/24 is shown in Appendices 1 & 3b, with Appendix 3b detailing the actual property expenditure by individual property. Actual expenditure is reported on a cash basis until the year end with quarter 4 reports incorporating any annual adjustments for prepayments and accruals.
- (b) The projected property expenditure has been increased by £130,100. £55,100 to cover required roof reslating at the Old Corn Exchange Shop (Rear) and £75,000 for completion of the renovations on the bungalow at Smedheugh Farm. Disinvestment from Aegon Asset Management may be required to cover these additional costs.
- (c) Appendices 3a and 3b show a full breakdown of the proposed budget for property rental and repairs for 2023/24. These will be revised as further information is received from Estates.

4.5 Income & Expenditure – Grants & Other Donations

The grants and other donations approved and distributed to 31 March 2024 are shown below:

Grant Recipients	Approved	£
Approved and paid to 30 September 2023		
Peebles Community Trust/Peebles Youth Voice	19/04/23	3,000
Peebles Pensioners Association	24/05/23	1,050
Peebles Christmas Lights Association	27/06/23	3,000
Peebles Highland Games	27/06/23	5,000
Interest Link Borders	23/08/23	2,000
Tweeddale Youth Action Group	11/09/23	3,000
Total Paid to 31 March 2024		17,050
Approved but not yet paid		0
Total Grants Approved not paid		0
Approved Budget 2023/24		25,000
<i>(Unallocated)/Overallocated Budget</i>		<i>(7,950)</i>

4.6 Income & Expenditure – Central Support Service Charge

The proposed charge for 2023/24 is currently estimated using a 2% uplift on the 2022/23 charge. This is subject to revision once the 2023/24 pay award is confirmed and a full Service Charge Review has been completed and approved by Council.

4.7 Income & Expenditure – Depreciation Charge

The projected depreciation charge for the year is £180,508. This is not a cash transaction and is off-set by a corresponding contribution from the Revaluation Reserve at the end of the financial year.

4.8 Appendix 2 provides the actual balance sheet value as at 1 April 2023 and a projected balance sheet as at 31 March 2024.

4.9 Balance Sheet – Fixed Assets

All fixed assets of the Common Good Fund are revalued every 5 years as part of the Council's rolling programme. The fixed assets were revalued at 1 April 2019. Appendix 4 shows the actual values of the individual properties at 31 March 2023, projected depreciation charges for 2022/23 and projected values at 31 March 2024.

4.10 Balance Sheet – Investment Fund

The fund has an 13.16% unrealised loss in market value since investment, largely due to continued volatility in investment markets. Overall, taking account of the income received, the fund has achieved a return of 15.88% since investment in February 2018.

4.11 Balance Sheet – Cash Balance

The cash held by the fund is projected to be (£51,675) at 31 March 2024 and is detailed below:

Cash Balance	£
Opening Balance at 1 April 2023	31,254
Projected deficit for year from Income & Expenditure Statement	(82,348)
Net cash movement in Debtors/Creditors	(0)
Rebate Investment in Aegon	(581)
Projected Closing Balance as at 31 March 2024	(51,675)

4.12 Balance Sheet – Capital Reserve

The movement in the Capital Reserves includes the unrealised loss for the Aegon Asset Management Fund as at 31 March 2023, but due to the nature of the markets no estimate has been made for the future years' movement.

5 IMPLICATIONS

5.1 Financial

There are no further financial implications other than those explained above in Section 4.

5.2 Risk and Mitigations

There is a risk that investments in the Aegon Asset Management Fund may reduce in value due to market or investment performance. This risk cannot be fully mitigated; however, it is being managed by the selection of a Fund Manager with a clear objective of preserving capital values while aiming to produce returns in line with the benchmark.

5.3 Integrated Impact Assessment

There is no impact or relevance to Equality Duty or the Fairer Scotland Duty for this report. This is a routine financial monitoring report which forms part of the governance of the management of the Common Good Funds. Nevertheless, a light touch assessment has been conducted and this will be published on SBC's Equality and Diversity Pages of the website as in doing so, signifies that equality, diversity and socio-economic factors have duly been considered when preparing this report.

5.4 Sustainable Development Goals

Whilst there are no economic, social or environmental effects arising from the proposals contained in this report, there are, through the activities reported upon, positive impacts upon the economy through protection of employment, positive impacts upon the quality of community life and improvements in local amenities and nurturing of local talent. The potential improvement in levels of income through the use of the new investment fund will act to make the Common Good Fund more sustainable in the future.

5.5 Climate Change

There are no effects on climate change arising from the proposals contained in this report.

5.6 Rural Proofing

There are no effects on rural proofing arising from the proposals contained in this report.

5.7 Data Protection Impact Statement

There are no personal data implications arising from the proposals contained in this report.

5.8 Changes to Scheme of Administration or Scheme of Delegation

There are no changes required to the Scheme of Administration or Scheme of Delegation arising from the proposals contained in this report.

6 CONSULTATION

- 6.1 The Chief Legal Officer (including as Monitoring Officer), the Chief Officer Audit and Risk, Director (People Performance & Change), the Clerk to the Council and Communications have been consulted and their appropriate comments have been incorporated into this report.

Approved by

Suzy Douglas
Director of Finance & Procurement

Author(s)

Kirsten Robertson	Statutory Reporting & Treasury Business Partner – Tel: 01835 825506
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Background Papers:

Previous Minute Reference: Peebles Common Good Committee 23 August 2023

Note – You can get this document on tape, in Braille, large print and various computer formats by contacting the address below. We can also give information on other language translations as well as providing additional copies.

Contact us at Pension & Investment Team, Council Headquarters, Newtown St Boswells, Melrose, TD6 0SA. Tel: 01835 824000 Fax: 01835 825166
Email: t&cteam@scotborders.gov.uk

**PEEBLES COMMON GOOD FUND
PROJECTED INCOME AND EXPENDITURE 2023/24**

APPENDIX 1

	Actuals at 30/09/23	Full Year Approved Budget 2023/24	Full Year Projected Budget 2023/24	Full Year Projected Over/ (Under) Spend 2023/24	Para Ref	Comments
	£	£	£	£		
Property Income						
Rental Income	(48,643)	(67,770)	(67,770)		4.2	
Non-Property Related Income						
Interest on Cash deposited with Council	(0)	(300)	(300)		4.3	
Investment Funds – Dividends Rec'd	(12,887)	(23,350)	(23,350)		4.3	Est 5% return
Other Income	(112)	(500)	(500)		4.3	
Total Income	(61,642)	(91,920)	(91,920)			
Property Expenditure						
Property Costs – General	73,139	0	130,100	130,100	4.4	
Haylodge Toilets – Cleaning etc	7,278	9,780	9,780	0	4.4	
Total Property Expenditure	80,417	9,780	139,880	130,100		
Grants & Other Donations	17,050	25,000	25,000		4.5	3 year average
Central Support Service Charge	0	9,388	9,388		4.6	Subject to review
Depreciation						
Depreciation Charge	0	180,508	180,508		4.7	
Contribution from Revaluation Reserve	(0)	(180,508)	(180,508)		4.7	
Net impact of Depreciation on Revenue Reserve	0	0	0			
Total Net (Surplus)/Deficit for year	35,825	(47,752)	82,348	130,100		

PROJECTED BALANCE SHEET VALUE AS AT 31 MARCH 2024

	Opening Balance at 01/04/23 £	Projected Movement in Year £	Projected Closing Balance at 31/03/24 £
Fixed Assets			
Land & Buildings	890,092	(180,508)	709,584
Feu Duties	1,619	0	1,619
Total Fixed Assets	891,711	(180,508)	711,203
Capital in Investment Fund			
Investment Fund Book Value	505,760	581	506,341
Unrealised Gains/(Loss)	(59,345)	0	(59,345)
Market Value	446,415	581	446,996
Current Assets			
Debtors	19,344	0	19,344
Cash deposited with SBC	31,254	(82,829)	(51,675)
Total Current Assets	50,598	(82,929)	(32,331)
Current Liabilities			
Creditors	0	0	0
Receipts in Advance	1,960	0	1,960
Total Current Liabilities	1,960	0	1,960
Net Assets	1,390,684	(262,856)	1,127,828
Funded by:			
Reserves			
Revenue Reserve	(136,318)	82,348	(56,070)
Capital Reserve	(412,450)	0	(412,450)
Revaluation Reserve	(841,916)	180,508	(661,408)
Total Reserves	(1,390,684)	262,856	(1,127,828)

PROPERTY PORTFOLIO PERFORMANCE FOR 2023/24**(Actual income to 30 September 2023 and projections to 31 March 2024)**

Rental Income – Land & Buildings	2023/24			2023/24
	Approv'd Budget	Project'd Budget	Actuals as at 30/09/23	Proposed Net (Return) /Loss
	£	£	£	£
33. Tweed Green Car Park	0	0	0	0
25. Greenside Car Park	0	0	0	0
22. Kings Meadows Car Park	0	0	0	0
9. George Meikle Kemp Monument	0	0	0	0
11. Victoria Park	0	0	0	0
10. Victoria Park Tennis Courts	0	0	0	0
Peebles Disused Railway	0	0	0	0
6. Peebles Golf Course	(15,290)	(15,290)	(15,290)	(15,290)
1. Jedderfield Farm & Grazing	(17,500)	(17,500)	(14,477)	57,500
2. Neidpath Grazings	0	0	0	0
8. Haylodge Park	(250)	(250)	0	(250)
17. Haylodge Depot	(9,500)	(9,500)	(8,260)	(9,500)
26. Old Corn Exchange Hall	(450)	(450)	(675)	(450)
34. Walkershaugh Store	(6,500)	(6,500)	(4,875)	(6,500)
28. Tweed Green	0	0	0	0
24. Cuddy Green (Part 1)	0	0	0	0
29. Venlaw Wood	0	0	0	0
20. Tweed Fishings	0	0	0	0
27. Peebles Town Clock	0	0	0	0
26. Old Corn Exchange Shop (Front)	(10,830)	(10,830)	(703)	(10,830)
32. Garage 1 Tweed Green	(300)	(300)	(300)	(300)
12. Venlaw Quarry	0	0	0	0
30. Venlaw Amenity Ground	0	0	0	0
Old Town Wall Monument	0	0	0	0
3. Haylodge Park Play Area	0	0	0	0
37. Walkershaugh ACF Site	(500)	(500)	(375)	(500)
36. Walkershaugh Bowling Green	0	0	0	0
40. Former Railway	0	0	0	0
35. Ninians Haugh Park	0	0	0	0
35. Ninians Haugh Play Area	0	0	0	0
19. Old Town Green	0	0	0	0
32. Garage 2 Tweed Green	(175)	(175)	(438)	(175)
32. Garage 3 Tweed Green	(175)	(175)	(88)	(175)
23. Land at March Street	0	0	0	0
38. Gas Governor Site	0	0	0	0
4. Fotheringham Bridge	0	0	0	0
16. Haylodge Cottage & Land	0	0	0	0
15. Garages Sites at Kirkland St (1-8)	(800)	(800)	(808)	(800)
21. Kingsmeadows Toilets & Land	0	0	0	0
13. Haylodge Toilets	0	0	0	9,780
39. Land at Gytes Leisure Centre	0	0	0	0
26. Old Corn Exchange Shop (Rear)	(2,000)	(2,000)	(2,000)	53,100
18. Haylodge Pavilion Site	0	0	(354)	0
5. Elliots Park Grazings	0	0	0	0
7. Kingsland Primary School & Site	(3,500)	(3,500)	0	(3,500)
7. Kingsland Primary School Sub Stn	0	0	0	0
7. Kingsland Nursery School	0	0	0	0
14. Connor Ridge Monitoring Site	0	0	0	0
General Property Expenditure	0	0	0	0
TOTAL	(67,770)	(67,770)	(48,643)	72,110

PROPERTY PORTFOLIO PERFORMANCE FOR 2023/24
(Actual expenditure to 30 September and projections to 31 March 2024)

Property Expenditure – Land & Buildings	2023/24				
	Approv'd Budget	Project'd Budget	Actual (Repair & Maint)	Actual (Other)	Actual Total
	£	£	£	£	£
33. Tweed Green Car Park	0	0	0	0	0
25. Greenside Car Park	0	0	0	0	0
22. Kings Meadows Car Park	0	0	0	0	0
9. George Meikle Kemp Monument	0	0	0	0	0
11. Victoria Park	0	0	0	0	0
10. Victoria Park Tennis Courts	0	0	0	(365)	(365)
Peebles Disused Railway	0	0	0	0	0
6. Peebles Golf Course	0	0	0	0	0
1. Jedderfield Farm & Grazing	0	75,000	72,439	(117)	72,322
2. Neidpath Grazings	0	0	0	0	0
8. Haylodge Park	0	0	353	0	353
17. Haylodge Depot	0	0	0	(192)	(192)
26. Old Corn Exchange Hall	0	0	280	0	280
34. Walkershaugh Store	0	0	0	0	0
28. Tweed Green	0	0	0	0	0
24. Cuddy Green (Part 1)	0	0	337	0	337
29. Venlaw Wood	0	0	0	0	0
20. Tweed Fishings	0	0	0	0	0
27. Peebles Town Clock	0	0	0	0	0
26. Old Corn Exchange Shop –(Front)	0	0	141	(2)	139
32. Garage 1 Tweed Green	0	0	0	0	0
12. Venlaw Quarry	0	0	0	0	0
30. Venlaw Amenity Ground	0	0	0	0	0
Old Town Wall Monument	0	0	0	0	0
3. Haylodge Park Play Area	0	0	0	0	0
37. Walkershaugh ACF Site	0	0	0	0	0
36. Walkershaugh Bowling Green	0	0	0	0	0
40. Former Railway	0	0	0	0	0
35. Ninians Haugh Park	0	0	0	0	0
35. Ninians Haugh Play Area	0	0	0	0	0
19. Old Town Green	0	0	0	0	0
32. Garage 2 Tweed Green	0	0	0	(38)	(38)
32. Garage 3 Tweed Green	0	0	0	0	0
23. Land at March Street	0	0	0	0	0
38. Gas Governor Site	0	0	0	0	0
4. Fotheringham Bridge	0	0	0	0	0
16. Haylodge Cottage & Land	0	0	0	0	0
15. Garages Sites at Kirkland St (1-8)	0	0	0	0	0
21. Kingsmeadows Toilets & Land	0	0	0	0	0
13. Haylodge Toilets	9,780	9,780	120	7,158	7,278
39. Land at Gytes Leisure Centre	0	0	0	0	0
26. Old Corn Exchange Shop (Rear)	0	55,100	0	(276)	(276)
18. Haylodge Pavilion Site	0	0	0	0	0
5. Elliots Park Grazings	0	0	0	0	0
7. Kingsland Primary School & Site	0	0	0	0	0
7. Kingsland Primary School Sub Stn	0	0	0	0	0
7. Kingsland Nursery School	0	0	0	0	0
14. Connor Ridge Monitoring Site	0	0	0	0	0
General Property Expenditure	0	0	579	0	579
Total	9,780	139,880	74,249	6,168	80,417

PROPERTY PORTFOLIO VALUATION FOR 2023/24

Projected property valuation to 31 March 2024)

Fixed Assets – Land & Buildings	Net Book Value at 01/04/23	Project'd Dep'n Charge 2023/24	Project'd Net Book Value at 31/03/24
	£	£	£
33. Tweed Green Car Park	0	0	0
25. Greenside Car Park	0	0	0
22. Kings Meadows Car Park	0	0	0
9. George Meikle Kemp Monument	0	0	0
11. Victoria Park (part)	0	0	0
10. Victoria Park Tennis Courts	40,000	0	40,000
Peebles Disused Railway	0	0	0
6. Peebles Golf Course	158,000	0	158,000
1. Jedderfield Farm & Grazing	150,176	(4,824)	145,352
2. Neidpath Grazings	20,000	0	20,000
8. Haylodge Park	0	0	0
17. Haylodge Depot	51,400	(30,600)	20,800
26. Old Corn Exchange Hall	24,250	(19,750)	4,500
34. Walkershaugh Store	28,600	(23,400)	5,200
28. Tweed Green	0	0	0
24. Cuddy Green (Part 1)	0	0	0
29. Venlaw Wood	16,000	0	16,000
20. Tweed Fishings	0	0	0
27. Peebles Town Clock	0	0	0
26. Old Corn Exchange Shop –(Front)	58,625	(55,375)	3,250
32. Garage 1 Tweed Green	2,750	(2,250)	500
12. Venlaw Quarry	0	0	0
30. Venlaw Amenity Ground	0	0	0
Old Town Wall Monument	0	0	0
3. Haylodge Park Play Area	0	0	0
37. Walkershaugh ACF Site	10,000	0	10,000
36. Walkershaugh Bowling Green	500	0	500
40. Former Railway	0	0	0
35. Ninians Haugh Park	0	0	0
35. Ninians Haugh Play Area	0	0	0
19. Old Town Green	0	0	0
32. Garage Tweed 2 Tweed Green	1,650	(1,350)	300
32. Garage 3 Tweed Green	1,650	(1,350)	300
23. Land at March Street	0	0	0
38. Gas Governor Site	750	0	750
4. Fotheringham Bridge	0	0	0
16. Haylodge Cottage & Land	144,175	(11,825)	132,350
15. Garage Sites at Kirkland St (1-8)	8,000	0	8,000
21. Kingsmeadows Toilets	2,600	0	2,600
13. Haylodge Toilets	18,176	(6,824)	11,352
39. Land at Gytes Leisure Centre	0	0	0
26. Old Corn Exchange Shop (Rear)	27,250	(22,750)	4,500
18. Haylodge Pavilion Site	4,790	(210)	4,580
5. Elliots Park Grazings	50,000	0	50,000
7. Kingsland Primary School & Site	70,000	0	70,000
7. Kingsland P'mary School Sub Stn	750	0	750
7. Kingsland Nursery School	0	0	0
14. Connor Ridge Monitoring Site	0	0	0
Total	890,092	(180,508)	709,584

Fixed Assets – Moveable Assets

Eastgate Fountain

Arts & Artefacts – held in locations below:

Chambers Institute

Leather Chairs (14), Chairs (5), China Cabinet, Antique Mirror, Square Coal Scuttle, Oak Mantle Clock (1930), Antique Fire Irons & Grate, Log Effect Electric Fire, Oval Oak Table, Light Pendants (5), 4 Single Brass Gas Wall Fittings

Tweeddale Museum

Silver Bowl, Provosts Chain (2), Weights & Balances, Provosts Chain & Baillie’s Insignia 1957, Provost & Baillie’s Robes 1957, Commemorative Bronze Plaque, Beltane Cup & Saddle 1663, Beltane Silver Plate 1677, Town Drum 1677, Silver Arrow for St Bartholomew’s Fair 1628, Silver Plate donated by Earl of March 1708, Silver Bell of Peebles with 2 smaller bells 1647, Engraving of Neidpath Castle, Rennie Trophy and Silver Medallion, Civic Photograph Album, Old Fire Engine, Portrait of Sir Michael Grieve Thorburn

Rosetta Road Offices

Portraits of J Ramsay Smith, Sir Michael Thorburn of Glenormiston, Alexander-7th Lord Elibank, Harry B Marshall of Rachan, Sir Graham Graham-Montgomery of Stanhope, Sir R J Thompson of Kaimes, Montolieu-10th Lord Elibank, Sir John Hay c1818, Back of Old Town Peebles

Fixed Assets – Land & Buildings (owned by the Common Good Fund but not included in the Balance Sheet)	Projected Net Book Value at 31/03/24 £
Kingsland School Site	7,496,900
Kingsmeadows Toilets	101,600
Kingsland Nursery School	399,000
Total	7,997,500

INVESTMENTS EXTERNALLY MANAGED

Cost of Investment	Units	£
Aegon Asset Management Investment (February 2018)	387,354	419,388
Aegon Asset Management Investment (August 2018)	22,187	24,000
Aegon Fund Rebate – (2018-2019)	422	452
Aegon Asset Management Investment – (May 19)	18,254	20,000
Aegon Fund Rebate – (2019-2020)	350	392
Aegon Asset Management Investment – (January 2021)	36,802	40,000
Aegon Fund Rebate – (2020-2021)	434	437
Aegon Fund Rebate – (2021-2022)	464	510
Aegon Fund Rebate – (2022-2023)	596	581
Aegon Fund Rebate – (2023-2024)	119	113
Total Invested to 30 September 2023	466,982	505,873

Value of Investment	£
31 March 2018	418,032
31 March 2019	446,938
31 March 2020	393,681
31 March 2021	508,284
31 March 2022	508,278
30 June 2022	452,112
30 September 2022	423,681
31 December 2022	447,500
31 March 2023	446,416
30 June 2023	448,329
30 September 2023	439,057
Increase/(Decrease) from Total Cash Invested	(66,816)

Return on Investment from inception	Capital Return %	Total Return %
to 31 March 2018	-0.30	
to 31 March 2019	+3.86	+9.41
to 31 March 2020	-15.16	-5.98
to 30 June 2020	-8.52	+2.76
to 30 September 2020	-7.91	+4.83
to 31 December 2020	-0.61	+14.09
to 31 March 2021	+0.78	+16.84
to 30 June 2021	+1.10	+18.71
to 30 September 2021	+0.36	+19.52
to 31 December 2021	+3.93	+25.02
to 31 March 2022	+0.68	+22.56
to 30 June 2022	-10.46	+10.70
to 30 September 2022	-16.12	+5.84
to 31 December 2022	-11.43	+12.81
to 31 March 2023	-11.69	+13.46
to 30 June 2023	-11.30	+16.45
to 30 September 2023	-13.16	+15.88

Integrated Impact Assessment (IIA)

Part 1 Scoping

1 Details of the Proposal

Title of Proposal:	MONITORING REPORT FOR 6 MONTHS TO 30 SEPTEMBER 2023
What is it?	A new Policy/Strategy/Practice <input type="checkbox"/> A revised Policy/Strategy/Practice <input checked="" type="checkbox"/>
Description of the proposal: (Set out a clear understanding of the purpose of the proposal being developed or reviewed (what are the aims, objectives and intended outcomes, including the context within which it will operate).	Quarterly report to Peebles Common Good Fund on the projected out-turn for 2023/24 and the projected balance sheet for 2023/24
Service Area: Department:	Common Good Funds Finance & Regulatory
Lead Officer: (Name and job title)	Kirsten Robertson – Statutory Reporting & Treasury Business Partner
Other Officers/Partners involved: (List names, job titles and organisations)	
Date(s) IIA completed:	01/11/2023

2 Will there be any cumulative impacts as a result of the relationship between this proposal and other policies?

Yes / No (please delete as applicable)
If yes, - please state here:

3 Legislative Requirements

3.1 Relevance to the Equality Duty:	
<p>Do you believe your proposal has any relevance under the Equality Act 2010? <i>(If you believe that your proposal may have some relevance – however small please indicate yes. If there is no effect, please enter “No” and go to Section 3.2.)</i></p>	
Equality Duty	Reasoning:
Elimination of discrimination (both direct & indirect), victimisation and harassment. <i>(Will the proposal discriminate? Or help eliminate discrimination?)</i>	Given the subject matter of this assessment, it is not relevant to Equality duty.
Promotion of equality of opportunity? <i>(Will your proposal help or hinder the Council with this)</i>	
Foster good relations? <i>(Will your proposal help or hinder the council s relationships with those who have equality characteristics?)</i>	

3.2 Which groups of people do you think will be or potentially could be, impacted by the implementation of this proposal? (You should consider employees, clients, customers / service users, and any other relevant groups)				
Please tick below as appropriate, outlining any potential impacts on the undernoted equality groups this proposal may have and how you know this.				
	Impact			Please explain the potential impacts and how you know this
	No Impact	Positive Impact	Negative Impact	
All of the protected characteristics including Age, Disability, Gender Reassignment, Marriage or Civil Partnership, Pregnancy and Maternity, Race, Religion or Belief, Sex, Sexual Orientation.	X			No impact or relevance. This is a routine monitoring report required as part of good governance of the Common Good Funds
3.3 Fairer Scotland Duty				
This duty places a legal responsibility on Scottish Borders Council (SBC) to actively consider (give due regard) to how we can reduce inequalities of outcome caused by socioeconomic disadvantage when making <u>strategic</u> decisions.				
The duty is set at a strategic level - these are the key, high level decisions that SBC will take. This would normally include strategy documents, decisions about setting priorities, allocating resources and commissioning services.				
Is the proposal strategic? No				
Yes / No <i>(please delete as applicable)</i>				
If No go to Section 4				
If yes, please indicate any potential impact on the undernoted groups this proposal may have and how you know this:				
	Impact		State here how you know this	

	No Impact	Positive Impact	Negative Impact	
Low and/or No Wealth – enough money to meet basic living costs and pay bills but have no savings to deal with any unexpected spends and no provision for the future.				
Material Deprivation – being unable to access basic goods and services i.e. financial products like life insurance, repair/replace broken electrical goods, warm home, leisure and hobbies				
Area Deprivation – where you live (e.g. rural areas), where you work (e.g. accessibility of transport)				
Socio-economic Background – social class i.e. parents' education, employment and income				
Looked after and accommodated children and young people				
Carers paid and unpaid including family members				
Homelessness				
Addictions and substance use				
Those involved within the criminal justice system				

4 Full Integrated Impact Assessment Required

Select No if you have answered “No” to all of Sections 3.1 – 3.3.

Yes / No (please delete as applicable)

If a full impact assessment is not required briefly explain why there are no effects and provide justification for the decision.

Report is a regular governance report required to ensure good governance of the Common Good Fund. All members of the Fund have equal status under the regulations followed.

Signed by Lead Officer:	Kirsten Robertson
Designation:	Statutory Reporting & Treasury Business Partner
Date:	01/11/2023
Counter Signature Service Director	
Date:	

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Proposed Teen Shelter in Victoria Park.

Introduction.

This paper summarises the proposal that SBC erect a teen shelter in Victoria Park.

Background.

Following a survey at Peebles High School in 2021, Peebles Community Council asked one of its members, Malcolm Bruce, to set up and chair a meeting of those with an interest in the welfare of our young people. This group began to meet towards the end of 2022 and has since named itself Peebles Youth Voice. It currently includes participants who represent local youth groups (Tweeddale Youth Action, Oorspaceyouthy, St Andrews Leckie church, Peeblesshire Youth Trust), the police, social work, education, vocational training, SBC Community Engagement as well as having young people representation which it aims to grow.

At its second meeting in January 2023, it met with some young folk – both male and female - and undertook an exercise with them to help the Group understand what was liked, disliked, missing, etc. The provision of a shelter in Victoria Park came up repeatedly in the exercise. Accordingly, the Group decided to explore how a shelter might be provided and how it could be constructed, in order that the Council may give it consideration.

The Group explored a variety of shelter options, including the possibility of involving the young people themselves in its design and construction (which it was considered would create a good sense of ownership and thereby potentially reduce the risk of it being vandalised). However, given that the project is to be funded and delivered by Scottish Borders Council the advice given was that an off the shelf shelter and installation by SBC staff would be the best approach to move the project forward as quickly as possible. A variety of locations was also discussed. Some of the young people were involved in these exploratory thoughts and their suggestions considered.

In parallel with considering these options, contact was made with Councillor Pirone, chair of Scottish Borders Council's Police, Fire and Safer Communities Board, who has a strong interest in youth matters. Councillor Pirone was supportive and so Peebles Youth Voice pursued its research into possible shelters, following which an initial paper was submitted to Councillor Pirone on March 15th. This was circulated by her to her fellow Peebles East councillors and, while there were some questions asked, no objection was raised; accordingly, discussions continued in order to bring greater definition to what might be done. Given budget and other considerations, the possible choice of shelter had to be amended several times but was firmed up as detailed below.

Shelter Description and Location.

The shelter will be a Beckton Chatshak shelter model CS5, provided by Broxap. Details of the shelter - an approximate picture of which is shown in Appendix 1 to this report - can be found at this link <https://www.broxap.com/beckton-chatshak-shelter.html>.

SBC will procure, install and be responsible for the shelter.

The recommended structure is a specifically designed Youth shelter. It is important that this and its difference to other “shelters” where young people currently hang out in Peebles be understood. Designed from robust galvanized mild steel and described as providing “a sturdy structure which is ideal for installing in parks and other areas where teenagers congregate”, it is “Constructed of heavy duty vandal resistant circular hollow sections”.

Weather Resistance Cladding is UV Stabilised Wind resistant to 23m/s and Fire Resistance Cladding is fire tested to ‘1Y’ for BS 476. It comes with a 25 year structural guarantee.

This having been said, it is important to remember that this is only a **teen shelter**. It is not an enclosed building and its nearest points of comparison are probably the huts in Hay Lodge Park (which are wooden – which this is not - and which are already used at times by young people as shelters) and even bus stops.

The young people will be able to personalise the shelter, which it is hoped will increase their level of responsibility and ownership.

In addition to the procurement of this shelter, three additions have been recommended following consultation:

- that a robust notice be placed inside the shelter advising key emergency contact numbers.
- That a rubbish bin be located near the shelter.
- That lighting of the shelter be provided¹.

Three possible locations - numbers 1, 2 and 3 shown approximately on the picture attached at Appendix 1 to this paper - were considered, weighing up a range of considerations, from practical observations (such as avoiding the flood plain area) to matters of visibility and possible disturbance. The preferred location, number 2, while not too far a walk from Priorsford Bridge, is

- not in close proximity to housing
- at a distance from the children’s play park and skatepark
- will be visible from the pathways

It is also the location most favoured by the consultation process summarised below².

¹ It is noted that this may not be possible within the budget for the proposed lighting improvements in the park. The suggestion has been made that angling some of the new lights so that the path to the shelter is clear would be a benefit.

² It is understood that a site survey requires to be undertaken and that the final location may require to be different.

Ownership and Responsibility.

The shelter will be owned by and be the responsibility of Scottish Borders Council, in the same way as the Victoria Park children's playpark and skatepark are.

Peebles Youth Voice will ask its participating organisations to communicate with their young people the importance that they respect the shelter and the ground surrounding it.

Consultation and Support.

Councillor Pirone has undertaken two consultations held in the park on separate Saturdays to gauge public opinion about the proposed shelter erection and also engaged online. She has also galvanised support from council colleagues and officers.

The overall result of the public consultations is shown at Appendix 2.

In addition to the public consultations, it should be noted that

- Councillor Pirone asked the High School to have pupils fill in the online questionnaire
- Peebles Community Council is supportive.
- The police have given their support and believe it to be a worthy trial.

While the overall outcome of the consultation – 56% in favour - is supportive, it has to be noted that 30% were not in favour and 14% were unsure, alongside which concerns were expressed by members of the public during consultation. These largely focused upon the risks that the shelter would be vandalised and could lead to an increase in anti-social behaviour in the park and surrounding area. It is acknowledged that these risks exist and cannot be wholly mitigated. However, in giving consideration to these concerns and, seeking to take a balanced view, the following was noted:

- There is a need. There are no designated places for young people in Peebles to hang out together outside – a natural thing which teenagers have done for generations.
- Young people are already hanging out in Victoria Park and, in the absence of a shelter, congregate in areas such as the Victoria Park day centre and adjoining gardens and the Baptist church framework and gardens.
- Research has demonstrated that such shelters can have a positive influence³
- The shelter proposal is proceeding in parallel with an application to improve lighting in the park.
- The shelter's location has been recommended on the basis of it being reasonably separate from other park facilities and adjacent residencies whilst also accessible and reasonably visible.
- Ongoing interaction with young people who may use the shelter - and their participation in customising the shelter as far as possible - will seek to emphasise the importance to them and their future aspirations of using it for the purpose intended and not damaging it.

³ For example, <https://www.yorkshirepost.co.uk/news/pioneering-youth-shelter-helps-cut-toll-anti-social-behaviour-1933063> and https://www.tywardreathandparparishcouncil.gov.uk/data/uploads/1102_42846335.pdf

On its own, simply erecting a teen shelter is not going to solve anti-social behaviour issues in Peebles or see better relations established across the community; quite a few other initiatives – which will be worked on - are necessary. And there remains a risk that the shelter will not be respected by an element of the young people. However, this is a first step and, as acknowledged by the police, is a worthy trial; it is a demonstration that the community wants to listen to our young people and seek to meet reasonable requests.

Funding.

The shelter will be funded wholly by Scottish Borders Council from small schemes and play park funds support by Councillor David Parker, who leads play parks strategy.

APPENDIX 1:
Shelter picture and location.

VICTORIA PARK SHELTER DESIGN



**VICTORIA PARK SHELTER:
PROPOSED LOCATION⁴ - Area 2.**



⁴ Subject to survey



Appendix 2: **PUBLIC CONSULTATION RESULTS.**

SUPPORT FOR SHELTER

4. Do you agree with the shelter proposal suggested by the young people? an example of what the shelter could look like is illustrated here.

[More Details](#)

● Yes	350
● No	190
● Maybe	85



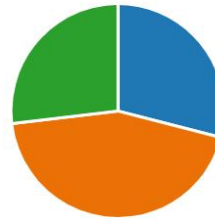
PREFERRED LOCATION.

6. looking at the visual, which shelter location do you prefer?

[More Details](#)

[Insights](#)

● Option 1	151
● Option 2	230
● Option 3	140



CHARITABLE DE-REGISTRATION OF SBC COMMON GOOD FUNDS

Report by Acting Chief Financial Officer

SCOTTISH BORDERS COUNCIL

30 March 2023

1 PURPOSE AND SUMMARY

- 1.1 This report advises Members of the intention by the Office of the Scottish Charity Regulator (OSCR) to remove the SBC Common Good Funds, charity number SC031538, from the Scottish Charity Register (the Register).**
- 1.2 The 12 Common Good Funds (Coldstream, Duns, Eyemouth, Galashiels, Hawick, Innerleithen, Jedburgh, Kelso, Lauder, Melrose, Peebles and Selkirk) are registered with the Office of the Scottish Charity Regulator (OSCR) as 1 registered charity, registration number SC031538.
- 1.3 A letter received from OSCR in December 2022 is attached at Appendix 1. This provides advance notification of the intention to remove the SBC Common Good Funds, registration number SC031538, from the Register, and outlines:
- The reason for the decision
 - The process by which the Charity will be removed from the Register
 - The effect of removal
- 1.4 OSCR has concluded that:
1. Scottish Borders Common Good is not a 'body' with a constitution distinct and separate from the Council that is capable of being entered in the Register
 2. The Charity does not meet the charity test because it does not have purposes that consist only of one or more of the charitable purposes in section 7(2) of the 2005 Act
 3. Because it has been concluded that the Charity does not have wholly charitable purposes an assessment of public benefit has not been carried out
- 1.5 The Council's Chief Legal Officer and Acting Chief Financial Officer agree with OSCR's conclusions that this is the correct approach. Following deregistration, annual accounts will not be prepared, audited and submitted to OSCR. The Common Good funds will instead be consolidated within the Council's statutory accounts. Outturn reports will continue to be presented to Common Good fund Committees setting out the annual income and expenditure associated with each fund and assets they hold on their balances sheet at 31 March each year. Separate records will still be maintained for each Common Good funds and current monitoring arrangements will continue.

2 RECOMMENDATIONS

- 2.1 It is recommended that Scottish Borders Council agrees with the notification from OSCR to remove the SBC Common Good Funds, charity number SC031538, from the Register and therefore resolves not to challenge the OSCR decision.**

3 BACKGROUND

- 3.1 The 12 Common Good Funds (Coldstream, Duns, Eyemouth, Galashiels, Hawick, Innerleithen, Jedburgh, Kelso, Lauder, Melrose, Peebles and Selkirk) are registered with the Office of the Scottish Charity Regulator (OSCR) as 1 registered charity, registration number SC031538.
- 3.2 The original registration was by Borders Regional Council prior to 1995, when charity registration was managed by HM Revenue & Customs. The reasons for this historic decision are not clear and records no longer exist to support the rationale. It was possibly to take advantage of tax benefits available at that time with regards to investment income, particularly in relation to share dividends. These tax benefits are no longer available, and there exists an anomalous position whereby the majority of Common Good Funds controlled by Scottish local authorities are not registered charities but those in the Borders still carry this designation.
- 3.3 There are particular costs associated with the accounting and auditing arrangements for charities, and these could be mitigated were the Funds not registered as a charity. The process for deregistering charities with OSCR has not previously been clear until now.

4 OFFICE OF THE SCOTTISH CHARITY REGULATOR (OSCR)

- 4.1 A letter received from OSCR in December 2022 is attached at Appendix 1. This provides advance notification of the intention to remove the SBC Common Good Funds, registration number SC031538, from the Register, and outlines:
- The reason for the decision
 - The process by which the Charity will be removed from the Register
 - The effect of removal
- 4.2 A charity is a body entered in the Register. OSCR may enter a body in the Register and allow a body to remain in the Register only if it considers that the body meets the charity test as set out in sections 7 and 8 of the Charities and Trustee Investment (Scotland) Act 2005 (the 2005 Act). The charity test comprises the following:
1. Assessment of whether the Charity is a 'body'
 2. Assessment of whether the Charity has only charitable purposes
 3. Assessment of whether the Charity provides public benefit
- 4.3 OSCR has concluded that:
1. Scottish Borders Common Good is not a 'body' with a constitution distinct and separate from the Council that is capable of being entered in the Register
 2. The Charity does not meet the charity test because it does not have purposes that consist only of one or more of the charitable purposes in section 7(2) of the 2005 Act
 3. Because it has been concluded that the Charity does not have wholly charitable purposes an assessment of public benefit has not been carried out

- 4.4 The Council's Chief Legal Officer and Acting Chief Financial Officer agree with OSCR's conclusions that this is the correct approach. The decision to remove the Charity will be made under section 30(1)(b) of the 2005 Act. It is the intention that the removal will take effect from 31 March 2023.
- 4.5 Scottish Borders Council will have a right to request a review of the formal decision during the 21 day period commencing on the date that the formal notice is issued in early March 2023. The procedure for requesting a review will be set out in the formal notice.
- 4.6 Once removed from the Register there will be no duty to account to OSCR and there will be no requirement to provide final accounts for the financial year ending on 31 March 2023.

5 IMPLICATIONS

5.1 Financial

There is an estimated charge of £1,000 for audit costs of the Common Good Fund accounts for 2022/23 which will no longer be applicable. This will be redirected to fund inflationary increases in the Council's external audit fees.

5.2 Risk and Mitigations

Following deregistration, annual accounts will not be prepared, audited and submitted to OSCR. The Common Good funds will instead be consolidated within the Council's statutory accounts. Outturn reports will continue to be presented to Common Good fund Committees setting out the annual income and expenditure associated with each fund and assets they hold on their balances sheet at 31 March each year. Separate records will still be maintained for each Common Good funds and current monitoring arrangements will continue.

5.3 Integrated Impact Assessment

There is no impact or relevance to Equality Duty or the Fairer Scotland Duty for this report.

5.4 Sustainable Development Goals

There are no economic, social or environmental effects arising from the proposals contained in this report.

5.5 Climate Change

There are no effects on climate change arising from the proposals contained in this report.

5.6 Rural Proofing

There are no effects on rural proofing arising from the proposals contained in this report.

5.7 Data Protection Impact Statement

There are no personal data implications arising from the proposals contained in this report.

5.8 Changes to Scheme of Administration or Scheme of Delegation

There are no changes required to the Scheme of Administration or Scheme of Delegation arising from the proposals contained in this report.

6 CONSULTATION

6.1 The Chief Legal Officer (including as Monitoring Officer), the Chief Officer Audit and Risk, Director (People Performance & Change), the Clerk to the Council and Communications have been consulted and their comments have been incorporated into this final report.

Approved by

Suzy Douglas
Acting Chief Financial Officer

Signature

Author(s)

Suzy Douglas	Acting Chief Financial Officer (X5881)
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Background Papers:

Previous Minute Reference:

Note – You can get this document on tape, in Braille, large print and various computer formats by contacting the address below. We can also give information on other language translations as well as providing additional copies.

Contact us at Pension & Investments, Council Headquarters, Newtown St Boswells, Melrose, TD6 0SA. Tel: 01835 824000 Fax: 01835 825166
Email: t&cteam@scotborders.gov.uk

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8 December 2022

BY EMAIL ONLY

Treasury Business Partner, Scottish Borders Council

**Scottish Borders Council Common Good Funds SC031538
Advance notice of removal from the Scottish Charity Register**

I am writing to you as the Principal Contact of the Scottish Borders Council Common Good Funds (SC031538) (the Charity) to give you advance notice that the Scottish Charity Regulator (OSCR) intends to remove the Charity from the Scottish Charity Register (the Register). Please bring this letter to the attention of the charity trustees.

This letter explains the reason for our decision, the process by which the Charity will be removed from the Register and the effect of removal. Please treat this as a courtesy letter, to give advance notice of our intention in order that Scottish Borders Council (the Council) can make any preparations it thinks necessary before the removal takes effect. Formal notice of our decision will follow in due course as explained below.

**The reason for our decision
The charity test**

A charity is a body entered in the Register. OSCR may enter a body in the Register and allow a body to remain in the Register only if it considers that the body meets the charity test as set out in [sections 7](#) and [8](#) of the Charities and Trustee Investment (Scotland) Act 2005 (the 2005 Act).

A body meets the charity test if:

1. its purposes 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

Assessment of whether the Charity is a 'body'



The Charity was entered in the Register on 1 April 2006 under [section 99\(1\)](#) of the 2005 Act; that is, as a body entitled by virtue of section 1(7) of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990 to refer to itself as a ‘Scottish charity’ immediately prior to the commencement of the 2005 Act.

We have considered whether the Charity is a ‘body’ capable of being entered in the Register.

Common Good generally comprises land and/or other assets historically vested in Scottish burghs and then vested by legislation in successive local authorities. Section 15 of the Local Government etc. (Scotland) Act 1994 (the 1994 Act) provided for the vesting of Common Good property in the newly created unitary authorities themselves. Article 12 and Schedule 2 of the Local Authorities (Property Transfer) (Scotland) Order 1995 provided for the various burgh funds that comprise the Scottish Borders Common Good to be transferred to and vested in Scottish Borders Council with effect from 1 April 1996.

Common Good land and other assets are therefore vested in and owned by the Council itself. The assets of Scottish Borders Common Good are held in trust by the Council but critically this arrangement does not involve the creation of a trust or any other form of body that is separate in identity from the Council. While the financial accounting for Common Good funds is carried out separately from the Council’s main accounts, this is for the improved transparency regarding the use and treatment of the Common Good funds and does not denote a distinct body.

As such, we conclude that Scottish Borders Common Good is not a ‘body’ with a constitution distinct and separate from the Council that is capable of being entered in the Register.

Assessment of whether the Charity has only charitable purposes

We also considered whether the Charity meets the charity test in terms of having only charitable purposes.

Section 15(4) of the 1994 Act provides for any Common Good property vesting in a new unitary authority to be administered, in the case of the Council, ‘having regard to the interests of the inhabitants of the area to which the Common Good formerly related’. We conclude that while the Council may apply the Common Good for charitable purposes, it is not confined to doing so. In having regard to the interests of the inhabitants of the former burghs that comprise the Scottish Borders, the Council may apply the Common Good for any purpose consistent with its functions as a local authority.

As such, we conclude that the Charity does not meet the charity test because it does not have purposes that consist only of one or more of the charitable purposes in section 7(2) of the 2005 Act.

Assessment of whether the Charity provides public benefit

OSCR determines whether a charity provides public benefit by considering the activities it undertakes in furtherance of its charitable purposes. As our [published guidance *Meeting the Charity Test*](#) explains, ‘not everything that is of benefit to the public will be charitable. Public benefit in a charitable sense is only provided by activities which are undertaken to advance an organisation’s charitable purposes’. Because we have concluded that the Charity does not have wholly charitable purposes we have not carried out an assessment of public benefit.

Our duties and powers

OSCR maintains the Register. Where it appears that a charity does not meet the charity test we must, in terms of [section 30\(1\)](#) of the 2005 Act, either:

1. direct the charity to take such steps as we consider necessary for the purposes of meeting the charity test; or
2. remove the charity from the Register

We have taken the decision to remove the Charity from the Register, as opposed to directing it to take steps to meet the charity test, because we have concluded that the Charity is not a ‘body’ and, as such, it should not be in the Register.

The process of removal

The decision to remove the Charity will be made under section 30(1)(b) of the 2005 Act.

We will give formal written notice to the Charity of our decision under [section 72\(2\)\(c\)](#) of the 2005 Act setting out the reason for our decision (as set out above) and advising the Charity of its right to request a review under [section 74](#) of the 2005 Act. Section 30 decisions are reviewable upon written request by the person or body that is the subject of the decision but there is no third party right to make representations.

[Section 73\(2\)](#) of the 2005 Act provides that a decision is of no effect unless the required notice is given and either:

1. the period of 21 days within which OSCR must, on request, review the decision expires without a request being made; or

2. where a review is requested, the review and any subsequent appeal is concluded with the original decision being confirmed.

On the date that OSCR's decision takes effect, the Charity will be removed from the Register. At the same time, we will publish on our website an inquiry report as required by [section 33\(1\)\(a\)\(i\)](#) of the 2005 Act. For the avoidance of doubt, I should explain that the Charity will still be searchable in the Register after the date of removal but only under the 'ceased charities' part of the Register.

It is our intention that the removal will take effect from 31 March 2023 to coincide with the end of the Charity's financial year. We will therefore issue formal notice to the Charity in early March in order to allow for the statutory review period to expire.

Removal from the Register – protection of assets

[Section 19](#) of the 2005 Act provides for the protection of assets held by a body immediately prior to its removal from the Register. Because we have concluded that the Charity is not a 'body', we are of the view that the provisions of section 19 do not apply to it.

The Charity will not be under duty to account to OSCR and we will not monitor the use of its assets once it is removed from the Register. We will also not require the Charity to provide us with final accounts for the financial year ending on 31 March 2023. I include this information only for the sake of completeness and to avoid any doubt.

Effect of removal

Once removed from the Register, the Charity will not be entitled to refer to itself as a 'charity' or to use its former registered charity number. We ask the charity trustees to take steps to ensure that any references to its charitable status are removed from new publications intended for issue after the date of removal and from websites and other digital platforms.

If the Charity has a Tax Reference number we recommend that the trustees contact HMRC to advise them of the removal. Loss of charitable status can in some instances constitute a 'disposal' triggering a liability for Capital Gains Tax. We are advised that local authorities are exempt from Capital Gains Tax under section 271 of the Taxation and Chargeable Gains Act 1992 but the charity trustees may wish to satisfy themselves on this point.

We also recommend that the charity trustees give consideration to the effect of removal upon any relief from non-domestic rates currently enjoyed by the Charity.

Right to review

As explained above, the Charity will have a right to request a review of our formal decision during the 21 day period commencing on the date that our formal notice is issued in March 2023. The procedure for requesting a review will be set out in the formal notice.

In the meantime, if you or the charity trustees have any questions or require clarification of any of the points set out in this letter please do not hesitate to raise them with me.

Yours sincerely

Steve Kent
Policy Manager

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OFFICIAL

Robin,

It was agreed at the CATSOG meeting that when the funfair is in town the CAT, along with CPT and response officers will and do give it passing attention. I can assure you and your constituents that when the fair is in town, CAT officers will be directly tasked to attend, however should a high risk missing person or person in possession of a weapon be reported to police, they may be called away from the fair.

Kind regards, Mark

Mark Russell

TPS J4927
Community Action Team (South)
J Division

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