
Support For Disasters Emergency Committee, assisting Ukraine

Report by Director of Finance and Corporate Governance

EMERGENCY POWERS

31 March 2022

1 PURPOSE AND SUMMARY

- 1.1 This report seeks approval to provide financial support to the Disasters Emergency Committee to help fund its members UK-based activities. In turn this will enable resources to be freed for their efforts to support the humanitarian crisis caused by the Russian invasion of Ukraine**
- 1.2 Scottish Borders Council approved a Motion at its meeting on 10 March 2022 recording its horror at the events in Ukraine and the suffering and devastation being inflicted on the Ukrainian people by the ongoing war. During consideration of the Motion, Members expressed a wish for the Council to make a donation to the Disasters Emergency Committee, should that be allowed by legislation. The paper provides background to the legislation relating to charitable donations by the Council and provides detail of similar support provided by other Councils.

2 STATUS OF REPORT

- 2.1 This report is an emergency powers paper due to the lack of any appropriate committee meetings to take this decision during the pre-election period for the 2022 Scottish Local government elections. The worsening situation in the Ukraine with upwards of an estimated 4 million people displaced from their homes as refugees also provides an emergency humanitarian backdrop to the decision sought.

3 RECOMMENDATION

- 3.1 It is recommended that approval is given to make a contribution towards the UK based activities of the Disasters Emergency Committee of £10,000 to be funded from financial year 2021/22 year end budget flexibility.**

4 LEGISLATIVE BACKGROUND

4.1 Scottish Borders Council approved a Motion at its meeting on 10 March 2022 recording its horror at the events in Ukraine and the suffering and devastation being inflicted on the Ukrainian people by the ongoing war. During consideration of the Motion, Members expressed a wish for the Council to make a donation to the Disasters Emergency Committee, should that be allowed by legislation. Scottish Borders Council can only make a financial donation if there is a statutory power enabling it to do so. The power of wellbeing contained in s20 of the Local Government Act 2003 provides:

“(1) A local authority has power to do anything which it considers is likely to promote or improve the well-being of –

- (a) its area and persons within that area; or
- (b) either of those.”

4.2 There are 2 sections in the Local Government Scotland Act 1973 which make direct provision for an Authority to make payments in respect of emergencies or to charities. These are section 84 and 83 respectively.

4.3 Section 84 – Powers of local authorities with respect to emergencies or disasters, provides:

“(1) Where an emergency or disaster involving destruction of or danger to life or property occurs or is imminent or there is reasonable ground for apprehending such an emergency or disaster, and a local authority are of opinion that *it is likely to affect the whole or part of their area or all or some of its inhabitants*, the authority may—

- (a) incur such expenditure as they consider necessary in taking action themselves (either alone or jointly with any other person or body and either in their area or elsewhere in or outside the United Kingdom) which is calculated to avert, alleviate or eradicate in their area or among its inhabitants the effects or potential effects of the event; and
- (b) make grants or loans to other persons or bodies on conditions determined by the authority in respect of any such action taken by those persons or bodies.”

“(3) The power conferred by subsection (1) above shall be in addition to, and not in derogation of, any power conferred on a local authority by or under any other enactment, including any enactment contained in this Act.”

4.4 The power contained in this section can only be used in respect of disasters or emergencies affecting its area or its inhabitants. Rather like the power of wellbeing, therefore, this power is of no assistance in this regard.

4.5 Turning now to Section 83, it enables an Authority to incur expenditure not otherwise authorised – and contains the power to make payment to Charities. It provides:

“(3) A local authority may incur expenditure on contributions to any of the following funds, that is to say—

- (a) the funds of any charitable body in furtherance of its work in the United Kingdom; or
- (b) the funds of any body which provides any public service in the United Kingdom otherwise than for the purposes of gain; or
- (c) any fund which is raised in connection with a particular event directly affecting persons resident in the United Kingdom on behalf of whom a public appeal for contributions has been made by a [convener of a local authority, a convener] of a community council, a lord-lieutenant or by a body of which any of these persons is a member [or by such a person or body as is referred to in section 137(3)(c) of the Local Government Act 1972].”

4.6 The purpose of this power is to enable a Local Authority to make donations to charities and funds to support work being done in the United Kingdom.

4.7 Glasgow City Council has previously announced that it will pay £20,000 to the “Disasters Emergency Committee (DEC) to help fund its members UK-based activities in response to the ongoing crisis in Ukraine.” Glasgow City Council funding is not being paid directly to relief in Ukraine, but it is to be applied to fund the DEC’s members UK based activities.

4.8 It is understood that a similar approach has been followed by other Scottish Local Authorities, including South Lanarkshire and Perth and Kinross Council. The view of the Council’s Chief Legal Officer is that this course of action is reasonable, as although there is no legal power which would enable SBC as a body to donate directly to the Ukrainian Disaster fund, if the Council is minded, funding could be provided to support the Disasters Emergency Committee (DEC) UK based activities within the legal powers available to the Council. This of course will enable the DEC to free up its internal resources to support the Humanitarian Crisis in Ukraine.

5 IMPLICATIONS

5.1 Financial

The recommended contribution of £10,000 to the UK based activities of the DEC would be funded from year end flexibility in the 2021/22 revenue budget.

5.2 Risk and Mitigations

The key risk associated with this proposal relates to the restriction on the legal powers of Local Authorities to fund direct activities relief activities to communities out with the UK. It is however lawful under section 83 of the 1973 Act for a Scottish Local Authority to make a donation to a charity to fund their activities in the UK. The payment would be made in recognition of the considerable strain the crisis in Ukraine has placed on the resources of the DEC and would provide support to their UK operation.

As the people of Scotland, including the residents of the Scottish Borders, have responded very generously to the crisis in Ukraine there is a risk that the Council could be seen to be out of touch if it does not do something

similar, in a way that is permitted by legislation. Failing to donate to an organisation such as the DEC, especially when other local authorities in Scotland have done so and as the Council is promoting this charity on its Ukraine webpage, could have negative impacts on the Council's reputation. As such it is proposed that, in line with the expressions of Elected Members on 10 March 2022, the above noted donation is approved.

5.3 **Integrated Impact Assessment**

There are no direct implications associated with an Integrated Impact Assessment.

5.4 **Sustainable Development Goals**

There are no direct implications associated with an Integrated Impact Assessment.

5.5 **Climate Change**

There are no direct implications associated with climate change in the report.

5.6 **Rural Proofing**

There are no direct implications associated with climate change in the 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 to the scheme of administration or the scheme of delegation proposed in this report.

6 **CONSULTATION**

- 6.1 The Chief Officer Audit and Risk, the Director (People Performance & Change), the Clerk to the Council and Corporate Communications have been consulted and any comments have been incorporated into the final report.

Approved by

David Robertson

Director of Finance and Corporate Governance

Signature

Author(s)

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Background Papers: None

Previous Minute Ref: N/A

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

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