



Scottish Land Commission  
Coimisean Fearainn na h-Alba

GOOD PRACTICE



## Protocol on common good land and buildings

The Common Good Act 1491 – still in force today – provides legal status to Common Good assets and creates an obligation that they be managed for the benefit of the citizens of former Royal burghs. Scotland's Local Authorities are responsible for managing the Common Good and every council area contains at least one former burgh.

Common Good property was granted to, and acquired by, burghs over time for public benefit, and was intended to provide the burgh with space to carry out a range of activities. These included constructing civic buildings and holding markets, as well as providing areas for recreation, the grazing of livestock, collection of fuelwood, and other activities. Common Good assets are often of significant local importance, part of the local heritage, and valued by residents. They can include buildings like town halls, tolbooths, and former burgh chambers, as well as parks, gardens, links, and woodland.

Local authorities have a duty in managing Common Good assets to take account of the interests of the residents of the former burgh.

These include duties introduced by the Community Empowerment Act (Scotland) 2015 relating to registration, use and disposal of Common Good assets. The Scottish Government has issued guidance on these duties, and this protocol is intended to be used alongside the guidance. This protocol also supports the practical implementation of the Land Rights and Responsibilities Statement (LRRS).

### How this protocol should be followed

- ✓ We expect everyone covered by this protocol to follow the specific expectations as set out in our protocols on Community Engagement in Decisions Relating to Land and Transparency of Ownership and Land Use Decision-Making.
- ✓ Where we use the word must, this means the action is required by law and failing to comply would be a breach of legislation.
- ✓ Where we use the word should, we expect everyone involved to follow the approach described, unless it conflicts with their legal duties.
- ✓ Where we use the word recommend, it means this is good practice, but we recognise that other approaches may be equally effective or necessary.

## Expectations

### Establish and maintain a register of Common Good Property

Local authorities must establish and maintain a register of property that is held as part of the Common Good and must make this easily accessible online. Local authorities should provide details on:

- whether Common Good land and buildings are being used, leased or are vacant
- whether the status is alienable or inalienable (where known).

This information must be regularly reviewed at intervals of no more than five years. It is recommended to create and share a map of Common Good assets, if possible.

### **Provide contact details**

Local authorities should provide clear contact details for those who manage and make decisions about Common Good land and buildings and should have a dedicated point of contact for Common Good matters. This information should be shared online alongside the Common Good register.

### **Consider community engagement and involvement**

Local authorities should regularly review how communities are engaged about the management and use of Common Good land and buildings and encourage community involvement in engagement processes.

It is recommended that local authorities consider whether there are structured ways to gather community views on disposal and management of Common Good land and buildings and use of Common Good funds, such as hosting a strategic engagement group or seeking community views on use of Common Good funds.

### **Disposing of Common Good land and buildings**

When a local authority is thinking about disposing or changing the use of Common Good land and buildings, it should consider whether this option will continue to deliver public good and what impact it will have on the broader Common Good portfolio.

It is recommended that where an asset is particularly important to the local community that local authorities carry out engagement before deciding on whether to dispose or change use of that asset. When a disposal or change of use is assessed to be the best option, the local authority must consult with the community.

### **Be transparent about processing for managing and disposing of Common Good**

Local authorities should be transparent about when, how and why they lease or dispose of Common Good land and buildings, including likely timescales (where known) and how any associated costs are expected to be covered. Local authorities should be clear about whether assets are alienable or inalienable and any differences in processes relating to this.

### **Be transparent about income and use of Common Good funds**

Local authorities must make information about the income generated by Common Good land and buildings clear and easily accessible. This should include information about how Common Good Funds are used, including how much is reinvested into Common Good assets, how much is distributed and to whom, and how much is retained by Common Good Funds.





## Who this protocol is relevant for

- ✓ Local authorities, who have a duty to manage Common Good assets in the interests of citizens of former Royal Burghs;
- ✓ Land managers including agents or other people employed or contracted by local authorities to look after land or buildings on their behalf;
- ✓ The community comprising of:
  - Community Councils representing any area(s) which may be impacted by the landholding;
  - Constituted community organisations, who have an open membership, demonstrate community control, and who represent a defined geographic area, which may be impacted by the landholding, and;
  - Residents who live in and businesses that are based in the local area.

## Definitions

You can find definitions of terms used in our protocols in our Protocols Definitions document.

[Protocols Definitions](#) →

## How to use this protocol

If you own or manage land, you can use the expectations set out in this protocol as a guide to assess the actions you are taking in relation to community engagement.



### **If you have an example of good practice to share:**

Consider writing a case study to share your positive example with others. We may be able to help with this.



### **If you are experiencing a situation that differs significantly from the expectations we have set out:**

Speak to the relevant landowner or community organisation to try to find a resolution.



If the situation relates to a regulated issue (like the environment or planning) then approach the relevant regulator.



If you have not been able to resolve the issue, then contact us with details and any supporting evidence. Where appropriate we will provide advice and work with you and the other parties involved, if applicable, to deal with any difficulties and help improve practice.

If you would like support to assess or improve your practice or have any questions about this protocol:

We may be able to provide advice or support about your situation.

### **Contact the Good Practice Team:**

@goodpractice@landcommission.gov.scot ☎ 01463 423 300.