

27 February 2007

Subterranean methods to shift control of assets

I HAVE now heard from the chief executive of Glasgow City Council, in reply to my recent letter about the council's surprising decision to transfer council assets (including common good - heritable and moveable - assets) to a company limited by guarantee with charitable status.

I understand that, following the executive committee's advice on February 2, councillors subsequently voted 58 to eight to approve seismic changes in the functions and duties of current departments, in a negation of current duties by councillors as democratic representatives of the electorate, with powers of scrutiny and voting rights, in the "workings" of all current departments.

In the entire subterranean consultations and negotiations, involving millions of pounds of citizens' current assets, there has been no consultation with the stakeholders (Glasgow citizens), no attempt at information, via the media or councillors, while the council executive has been involved, over a lengthy period, with advisers, consultants, the Inland Revenue, the Office of the Scottish Charities Regulator, organisations/charities outwith Scotland, and others.

There has been no evidence in political party manifestos of a desire to offload councillors' current paid duties into a charity, and also a trading company, where councillors will have no useful input whatsoever, nor any legal obligations and duties.

Were all these major changes from accountability to citizens, and the electorate, part of the reason the present councillors were voted into office four years ago, there might be some acceptable excuse for the haste, which is restricted to a three-month period prior to the forthcoming elections (MSPs and councillors) on May 3.

In fact, all "arrangements" for a new charity and trading company, along with management arrangements, transfer of staff, and transfer of assets, are to be completed by April 1. The charitable company is to be fully operational by May 31 - with no democratic input, including via the elections on May 3.

Consultation with staff and trade unions appears to be unimportant in current negotiations; obviously staff have been instructed to remain silent.

While a chief executive may be satisfied that the entire proposal is "both lawful and wholly consistent with the principles whatever they are governing common good" this is negated by the fact that the Common Good Register has to be "reviewed and updated" - in spite of the statutory obligations to "maintain" this and the statutory obligation to "have the accounts audited annually, and open to public inspection".

Clearly, there has been no duty of care of separate common good assets, heritable and moveable, by the current trustees - ie, all elected councillors - which remains a separate legal issue.

Under separate headings there are to be 35 services transferred to the new charity and the trading company.

In view of the ongoing involvement of the Scottish Parliament (through the Petitions Committee, followed by the Local Government and Transport Committee), it is important to raise the profile of the legalities concerning proposals which affect "disposals" of current (and future) common good assets, heritable and moveable, and to ensure that these remain legally safeguarded.

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Rushed decision to transfer control

M E Mackenzie (February 27) is right to draw attention once again to the woeful lack of information and prior consultation by Glasgow City Council regarding the transfer of control of certain services and assets to a separate charitable company.

Common good assets included in this transfer were donated or bequeathed to Glasgow by many past benefactors, to be held in trust and administered by the city council for the benefit of the whole community. Whatever argument there may be about the actual ownership of these assets, there is no doubt that the elected councillors have both a legal and a moral duty of trust, which they are now in process of abandoning.

Readers may be interested in the recent comments of the Scottish Parliament's Local Government Committee, in its report to ministers after taking evidence and debating this matter. "The committee is concerned that the standard of record-keeping of common good assets by local authorities does not appear to be consistent."

"Assets should be properly valued and clearly and correctly recorded, and this information should be transparent and easily accessible."

"Common good assets should be promoted better to allow communities more influence over their use," and "there should be formal consultation with a community before the disposal of any common good asset."

Glasgow City Council's rushed decision to transfer control of some of these assets to a separate company is hardly the best way to meet these requirements. The action is not just irresponsible, it shows total contempt for the citizens who put them into power. It seems that council leader Stephen Purcell is now behaving like Big Brother Tony Blair, ignoring all opposition and using an unrepresentative majority produced by an undemocratic voting system to drive through his own personal agenda.

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