

ANGUS COUNCIL

FINANCE AND INFORMATION TECHNOLOGY COMMITTEE

11 JUNE 1996

CODE OF GUIDANCE ON FUNDING EXTERNAL BODIES AND
FOLLOWING THE PUBLIC POUND

REPORT BY THE DIRECTOR OF FINANCE

ABSTRACT

This report outlines the main issues arising from the Accounts Commission and COSLA jointly developed Code of Guidance concerning the funding of external bodies.

1. RECOMMENDATIONS

It is recommended that the Committee:-

- (i) note the content of the Accounts Commission and COSLA joint Code of Guidance;
- (ii) instructs the Finance Department in consultation with other appropriate departments to:-
 - (a) review how the issues in the Code impact on the circumstances prevailing within Angus Council; and
 - (b) produce and issue appropriate guidance notes following this review;
- (iii) note that full co-operation will be available to the external auditor when he assesses any guidance put in place by the Council.

2. BACKGROUND

For a number of years concerns have been raised about the increasing use by Councils of companies, trusts and other arms-length bodies. Those concerns derived from the basic premise that where public funds are involved there is an expectation of a high degree of control and accountability.

While these concerns have led to detailed legislative provisions applying in England and Wales, it was not thought appropriate to extend those provisions to Scotland.

Rather, the Accounts Commission and COSLA are seeking to address the general concerns through a Code of Guidance for Councils which will not be a legalistic regulatory framework. This approach is based on self-regulation by Councils and monitoring through the external audit process and it accords with the Council's approach to openness, integrity and accountability outlined in its Strategic Statement.

A copy of the Accounts Commission and COSLA joint letter and Code of Guidance is attached at Appendix A for information.

3. POSITION WITHIN ANGUS COUNCIL

Angus Council makes substantial annual payments to external bodies for services provided on behalf of the Council.

As far as can currently be determined, and where the sums involved are significant, all such payments either are or will be based on a contractual relationship geared towards the Council achieving an effective, efficient and economic manner of delivering an identified service need to a recognised client base.

Examples of such payments include Crossroads Angus, Arbroath Town Mission, Forfarshire Society for the Blind, Angus Citizens Advice Bureau and Angus Women's Aid.

The Council also makes financial contributions to, and is represented on, the Angus and City of Dundee Tourist Board.

No local authority companies were disaggregated to Angus Council by the demitting authorities.

Angus Council does however operate some 100 Charitable Trusts and Other Funds with a total value of approximately £1.25 million. The vast majority of these Trusts and Funds only contain relatively nominal capital and revenue balances and would not be considered substantial. The Strang's Mortification Fund does however hold material sums of capital and revenue balances (some £700,000 and £100,000 respectively) and may be impacted by the Code of Guidance.

4. CONSULTATION

The Chief Executive and the Director of Law and Administration have been consulted in the preparation of this report.

5. CONCLUSION

A review of the substantial payments to external bodies and the significant Trust and Fund holdings should be carried out to establish whether they are impacted by the Code of Guidance.

If appropriate, guidance notes will be prepared and operated based on the Accounts Commission and COSLA joint Code of Guidance. Notwithstanding, the circumstances prevailing within Angus Council will be monitored on an ongoing basis and the Code of Guidance will be utilised should circumstances require.

D.S. SAWERS
Director of Finance

NOTE: No background papers, as defined by Sections 50D of the Local Government (Scotland) Act 1973 (other than any containing confidential or exempt information), were relied on to any material extent in preparing this report.

CMcM/LH
6 June 1996
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CEC02084822_0002



24 May 1996

Your Ref:

To: Chief Executives

Our Ref: F/4

(Copy to Directors of Finance)

Dear Chief Executive

CODE OF GUIDANCE ON FUNDING EXTERNAL BODIES AND FOLLOWING THE PUBLIC POUND

I enclose copies of the Code of Guidance on Funding External Bodies and Following the Public Pound which is being issued jointly by the Accounts Commission and COSLA.

For a number of years there have been concerns about the increasing use by councils of companies, trusts and other arms-length bodies. Those concerns derived from the basic premise that where public funds are involved there is an expectation of a high degree of control and accountability. These concerns led to the detailed provisions concerning local authority companies contained in the Local Government & Housing Act 1989 which applies in England and Wales. It was not thought appropriate to extend those provisions to Scotland. The Accounts Commission and COSLA seek to address the general concerns through a Code of Guidance for councils which will not be a legalistic regulatory framework. This approach is based on self-regulation by councils and monitoring through the external audit process.

The need for COSLA and the Commission to jointly develop a Code of Guidance on the funding of external bodies was also one of the ~~principle~~ recommendations arising from the recently published Scottish Office/COSLA Task Force Report. The attached Code is the result of a process of consultation between the Commission and COSLA and is intended to lay out the principles of best practice in establishing relationships with companies, trusts and other bodies where there is a substantial funding relationship with the council. The Commission and COSLA expect that councils will wish to develop their own individual and more detailed rules to set within the framework of this Code. In this context COSLA will be taking forward with councils, and input from the Commission as required, the further development of operational guidance. For that reason the Code is not written in prescriptive terms. It will be for each council to address the issues which are dealt with in the Code in the light of its own circumstances. The external auditors of councils, who are appointed by the Accounts Commission, will assess how councils have dealt with those issues, measuring councils' performance against the Code of Guidance. The Code will be subject to review in the light of further experience.

18 George Street Edinburgh EH2 2QU
Telephone [REDACTED]

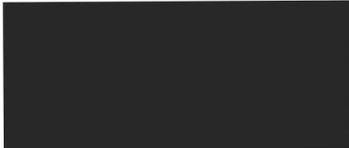
Convention of Scottish Local Authorities
Rosebery House 9 Haymarket Terrace Edinburgh EH12 5XZ
Telephone 0131 474 9200 Fax 0131 474 9292
DX No. ED407 Edinburgh

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The Commission and COSLA intend that this approach to the concerns about relationships with local authority companies, trusts and other bodies will prove the value of a consultative and agreed approach to self-regulation. The Code is therefore commended to your Council for immediate consideration.

I would be grateful if you would arrange for appropriate distribution and consideration of the Code of Guidance within your Council.

Yours sincerely



Douglas Sinclair
Chief Executive



Robert W Black
Controller of Audit



**CODE OF GUIDANCE ON
FUNDING EXTERNAL BODIES
AND FOLLOWING
THE PUBLIC POUND**

COSLA
Promoting Scottish Local Government

ACCOUNTS COMMISSION
CONVENTION OF SCOTTISH LOCAL AUTHORITIES

**CODE OF GUIDANCE ON
FUNDING EXTERNAL BODIES AND
FOLLOWING THE PUBLIC POUND**

1 OBJECTIVE

It is important to ensure clear public accountability for public funds at the same time as supporting initiatives for securing quality local authority services in the most effective, efficient and economic manner. The principles of openness, integrity and accountability apply to councils in their decisions on spending public money which are subject to public record and external audit. These principles should also apply to funds or other resources which are transferred by councils to arms-length bodies such as companies, trusts and voluntary bodies. This guidance is intended to ensure proper accountability for such funds and that the principles of regularity and probity are not circumvented. It has the support of the Convention of Scottish Local Authorities.

2 SCOPE

The guidance which follows sets out a framework for councils' relationships with bodies through which they seek to carry out some of their functions other than on a straightforward contractual basis. The principles of the guidance apply to companies and other bodies such as trusts or grant aided voluntary organisations both where such bodies are subject to local authority control or influence and where they operate at arm's length. Councils will wish to have their own rules setting out procedures appropriate to their local circumstances and internal processes, and those rules should be based on this guidance. The guidance should apply to any new substantial funding relationships entered into by councils and to existing substantial funding relationships at the earliest possible review date. What is "substantial" will vary according to circumstances. When interpreting "substantial" councils should have regard to the significance of the funding in relation to their own budgets and its significance in relation to the budget of the external body. We do not, for example, intend this guidance to apply to the many small revenue grants which councils make to community groups annually. "Funding" is intended to include all resources which councils may transfer.

3 PURPOSES

When agreeing to transfer funds to an external body a council must be clear about its reasons for doing so. Proper considerations should always apply and the prime purpose of involvement with external bodies should be the achievement of the council's objectives in the most effective, efficient and economic manner

and not the avoidance of controls or legal restrictions which are designed to secure probity and regularity in the use of public funds. The reasons should be related to a strategy or policy of the council and that link should be demonstrable. An overall statement of purpose should be contained in any council decision to establish the funding relationship and should be expressed in any establishing documents or written agreements or understandings between the council and the body. The council should set out its expectation of the use of the funding. This should contain a broad and general statement of aims or goals and should also contain clear targets with timescales and methods of measurement whenever possible, as well as any conditions and reporting requirements.

4 FINANCIAL REGIME

The council should spell out clearly the extent of its financial commitment to the external body and the nature of the financial relationship eg shareholding, grant, loan, contractual payments. Criteria for making and receiving payments should be specified. The transfer of any assets should be clearly regulated in a written agreement and the end destination of any such assets should be specified. The council's entitlements to any financial return should be stipulated and commitments to financial contributions by councils should not be open-ended in duration or amount. The written agreement should refer to the minimum standard of management arrangements which need to be in place and any specific or additional responsibility and accountability which is being vested in a board or management committee. The minimum accounting and audit requirements should also be included.

5 MONITORING ARRANGEMENTS

The council should make clear any requirements which it has of external bodies to operate in a particular way. This might include proper employment practices, recruitment and selection processes, equal opportunities requirements, wages and conditions of service of employees and purchasing policies.

The council should also stipulate how it intends to monitor the relationship between itself and the external body. For example, the council may wish to stipulate that it will have appropriate access to records held by the body. The council may require the body to take appropriate advice on its actions and to make frequent monitoring reports to the council on such matters as -

- ◆ income, expenditure, profitability, liquidity and other financial matters
- ◆ achievement of targets
- ◆ future plans

Regardless of representation on committees or boards, the council should insist on regular monitoring and reporting back by such bodies. Where the council designates a member of staff in a supervisory officer or equivalent capacity it should ensure that such officers are clearly aware of their responsibilities and of the relevant monitoring procedure.

It is not the intention of this guidance to try to put the external auditors of the council in the place of the auditors of external bodies. However, the council must ensure that its external auditors are given a right of access to such records, and, if appropriate, accounts and financial arrangements of the external body so that they may follow the trail of public money from the council through the body. They should be able to

seek, through the council, any explanations which they consider necessary from representatives of the body. The external auditors of the council should also have access, through the council, to the external auditors of the body.

6 REPRESENTATION

The council should consider very carefully the question of representation on the boards of companies which are subject to its control and, to an even greater extent, on bodies which are not subject to its control. For example, members or officers who become directors will assume personal responsibilities under the Companies Acts. It is possible that conflicts of interest can arise for such members and officers as between the company and the council. The council must ensure that members and officers are properly advised of their responsibilities to the council and to the company. This should include questions of declarations of interest.

7 LIMITATIONS

In entering into a substantial funding commitment with an external body the council should lay down a timetable for the achievement of the objectives. If the purpose is a continuing one then provision should be made for regular review of achievements and of the relationship between the body and the council. Arrangements should include regular reporting to an appropriate council committee, if necessary in private if issues of commercial confidentiality arise. Clear limits should be set on the extent to which the council will become involved financially with the body and its affairs. Clear rules should be laid down at the outset for terminating the funding agreement and separation of the council's interest from that of the body. Councils should consider whether particular events should trigger a review eg change of leading personnel in the external body.

8 ACCOUNTABILITY

The external auditors appointed by the Accounts Commission will be required to review as part of the annual audit the arrangements which councils have made for such substantial funding agreements and will measure councils' compliance with this guidance. In cases where they have concerns over issues of probity and regularity they will make these known to the council and the Controller of Audit.