



Mr P Murray
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Our Ref:
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Dear Paddy

Dornoch Burgh Provost Chain and Robes

Many thanks for your email of 20 October 2022 regarding the ownership of the Dornoch Burgh Provost chain and robes. Apologies for the delay replying to you.

I have sought legal advice on the information you provided – namely the minutes of the Dornoch Burgh Council. Our lawyers note that on 19 February 1975 Dornoch Burgh Council resolved that:

- Chain and robes be placed in Trust.
- Trust to give chain and robes to Dornoch Area Community Council (DACC) when formed.
- Chain and robes to be used by DACC, whose Chair was assumed to be able to use the title of Provost.

The resolution raises two issues: ownership of the Provost chain and robes, and use of the title 'Provost'.

Ownership of Provost Chain and Robes

On 16 May 1975 Sutherland District Council came into existence and on that day Section 222(2) Local Government (Scotland) Act 1973 and Article 10 Local Authorities (Property etc.) (Scotland) Order 1975 transferred all common good property owned by Dornoch Burgh Council on 15 May 1975 to the new Sutherland District Council. If Dornoch Burgh Council did not own the chain or robes on 15 May 1975 then title to them could not have passed to Sutherland District Council or, subsequently, to Highland Council. It is clear from the resolution that the Burgh wanted to gift the chain and robes to DACC, once constituted. While it is not clear that the intermediate trust was actually formed, the lack of the envisaged trust was not fatal to Dornoch Burgh's ability to give away the chain and robes. Gifts of property (other than land) require few formalities – only intent to donate, delivery and acceptance. Furthermore, Highland Council has accepted that other common good property was given away by other Burgh councils before their abolition. On the presumption (which further evidence could rebut) that on or before 14th May 1975 the chain and robes were given away (delivered) by Dornoch Burgh Council then it is very difficult to see how the District Council could have owned them on 16th May 1975

Having reviewed the further information the Council agrees that ownership of the chain and robes has passed to DACC.

Use of the title Provost

Dornoch Burgh Council assumed the title of Provost would be bestowed on the Chair of DACC. This proved not be the case for Dornoch, or indeed for any Community Council, and was the subject of debate in Westminster, resulting from an amendment proposed by David Steel MP, which was defeated. DACC did not replace Dornoch Burgh Council and has no powers that were formerly held by any Local Authority past or present, including those of Provost. There is no statutory basis for DACC to call its chairperson 'Provost'. Highland Council's Scheme of Establishment for Community Councils including the model constitution adopted by DACC, requires Community Councils to appoint office bearers including a Chair. The individual holding that position is the Chair of the Community Council and bestowing of any other title upon that person has no implications or consequences.

Nonetheless, while naming a Community Council Chair as Provost may be confusing in conjunction with the fact that statute has preserved the position of Lord Provost in Aberdeen, Edinburgh, Glasgow and Dundee; and that some area committees of Highland Council (and other Scottish Local Authorities) use the title Provost; and that trustee powers and duties formerly vested in Burgh Provosts now vest in members of The Highland Council; there is no statutory prohibition on DACC calling its Chairperson 'Provost' and I am advised that Highland Council has no locus to prevent DACC (or indeed any other independent body) from calling its chairperson Provost.

Therefore, I am advised that DACC is free to name its chairperson "Provost".

I trust you and the Community Council will find these conclusions satisfactory. I will inform Dornoch Heritage Society, the current holders of the chain and robes, that Highland Council acknowledges the ownership lies with Dornoch Area Community Council (formally, ownership actually lies with the Officer Bearers on behalf of the Community Council). Please note that none of the above affects the ownership of the Royal Charter (or any other Common Good property and assets) which remains in the ownership of Highland Council.

Finally, you may also be interested that there has been mention of an Orb which used to sit on the table at Burgh Council meetings and apparently was handed to the Cathedral. I have contacted the Cathedral, but there is no record or knowledge of this. It may be something that you wish to research further.

Yours sincerely,



Phil Tomalin
Ward Manager Sutherland

cc Cllrs. R. Gale, J. McGillivray, L-A. Niven, M. Baird, M. Hutchison, H. Morrison.