

Kirby Muxloe Parish Council

Kirby Muxloe Recreation Ground Charity No 521441

ADMINISTRATIVE POLICY

This revised policy was adopted by the Council meeting as sole trustee for the Kirby Muxloe Recreation Ground Charity on the 22nd January 2015. This document provides clarity about the role of the Parish Council in relation to Kirby Muxloe Recreation Ground Charity No 521441 and the legal requirements for administration of the charity.

1. Background.

The registered charity no 521441 was created in 1962. The Trust Deed (see Appendix 1 for a transcript) dated 4th June 1920 concerns an area of land off Station Road, Kirby Muxloe which was conveyed to the Recreation Ground Charity in 1962.

The Trust Deed specifies that the land should be “assigned forever for the purposes of public pleasure grounds”

2. Sole managing trusteeship.

The Trust Deed had the effect of making the Parish Council the sole Managing Trustee of the Charity responsible for the day-to-day management of the Recreation Ground. Thus there being one single corporate trustee (the Parish Council) and as such individual Parish Councillors are not Trustees of the Charity; instead the Council as a corporate body act properly as a charity trustee.

Whilst individual councillors are not Trustees, they must however act in a responsible way so as to ensure that the council acts properly as a charity trustee. The Council must continue holding and using the Recreation Ground land in accordance with the charitable trusts declared in the original Trust Deed, i.e. as a recreation ground for the benefit of the inhabitants of the village of Kirby Muxloe and surrounding district.

3. Administrative arrangements.

3.1 General

The charity is governed by the Trustee Deed dated 4th June 1920, however the documents provide little guidance about how the charity should be administered. Instead minimum standards for Parish Councils acting as sole managing trustees are provided by the Charity Commission. These minimum standards are conveyed in the following sub-sections.

It should be noted that the Charity Commission has advised that there is little need to amend the Trust Deed in order to provide suitable administrative rules to govern the charity provided the minimum standards referred to above are followed.

3.2 Meetings.

Meetings of the council when it is acting as a charity trustee should take place separately from those of ordinary or other council meetings. Such meetings may need to be held for example to:

- a) Draft/review health and safety policies/risk assessments for the Recreation Ground.
- b) To consider proposals to improve facilities (e.g. to create a car park or to provide changing rooms) and apply for associated funding.
- c) Agree to make a request to the Parish Council to undertake services (e.g. grass cutting or mole control) on its behalf on a grant-in-kind basis.
- d) Any other matter solely relating to the Recreation Ground.

Meetings as charity trustees should be governed by the same Standing Orders that are adopted by the Council for its ordinary meetings and its committee meetings. However, care should be taken not to refer to charity trustee meetings as committee meetings. They are meetings of the Council acting as sole trustee for the charity.

In addition such meetings should have separate agendas (with the same notice periods as for other council meetings) and minutes.

Ordinary meetings of the council and those meetings held as charity trustees may be run back-to-back providing a clear distinction is made between the two in the agendas and minutes and by the Chairman of the meeting.

3.3 Financial arrangements.

3.3.1 Banking.

A separate bank account for the charity is required as the charity receives income from its activities (such as library rent).

There may also be VAT implications. Under the circumstances the charity may also need to adopt practices set out in the Council's Financial Regulations (e.g. for cheque signatories)

3.3.2 Accounts.

Where the Parish Council, as Trustees of the management of the Recreation Ground, have incurred expenditure in fulfilling their responsibilities for the management of the land (e.g. grass cutting, fence repairs etc.), such expenditure should be entered into the council's own cashbook. The cashbook should also include an analysed cost centre solely for income and expenditure relating to the charity in order that total charity income and expenditure can be easily viewed.

For example a monthly grass cutting payment that covers all the Parish Councils land should be apportioned (according to approx. acreage) between the cost centre specifically for the charity and other cost centres that the council may have for its own ground maintenance.

A yearly "Maintenance Charge" in respect of the expenditure as recorded above will be invoiced by the Parish Council to the Charity Trust taking into account the yearly income received by the Charity Trust and any expenditure incurred over and above this yearly charge will be treated as "gifts-in-kind".

As with all expenditure the cashbook should record the specific power used to provide the donation (e.g. LG(MP)A 1976 s.19(3). Attributing expenditure to s.137 should be avoided where an alternate power exists.

3.3.3 Financial reserves.

A provision for a separate financial reserve should be earmarked taking into account the yearly income and expenditure.

3.3.4 VAT.

The council may reclaim VAT incurred on any invoice relating to the charity where it has agreed to pay this as a grant-in-kind to the charity. Therefore the council can reclaim VAT on fencing works, grass cutting etc. as long as the relevant invoice is addressed to it and a suitable power has been identified to allow the expenditure to take place.

3.3.5 Asset register.

All equipment previously placed on the charity land should be treated as being grants-in-kind to the charity by the council, including certain capital items which have been previously purchased by the council with grant-aid from external bodies. Conditions relating to these grants may prevent the council from disposing of these capital items without the consent of the

funder (and may involve claw back of funding). It could be argued that the council has disposed of items to the charity and therefore may be in breach of conditions. To avoid any such confusion at a later date future grant applications should make clear that ownership of any capital items will pass to the charity.

Both the charity land and any associated capital items should be recorded on the councils asset register in a way that could easily identify it as belonging to the charity. The value of these charity items should not be shown in the council's annual return. However they should be included in the insurance schedule.

3.3.6 Insurance

There is no need to have separate insurance cover in place for either charity land, capital items owned by the charity or for other insurance cover (e.g. public liability insurance). However any insurer should be made aware that the council is the sole managing trustee when including the charity items under any wider insurance policy.

3.3.7 Charity Commissioners returns.

a. Trustee's Annual report.

The Charity Commission requires all charities, (irrespective of income) to produce a Trustees Annual report (which is only submitted to the Charity Commission if charity gross income exceeds £25K) and will contact the council at the end of the financial year to do so.

The Annual Report should be drafted by the Clerk and approved by council whilst meeting as a charity trustee.

b. Annual Update/Return.

The Charity Commission also requires charities to complete an Annual Update (or annual Return if the income exceeds £10K) and will contact the council at the end of the financial year to do so.

This Update provides simple administrative information about the charity. The Update should be completed by the Clerk and submitted online.

c. Annual Accounts.

All charities are required to produce accounts. Under this policy the charity will produce accounts on a receipts and payments basis. The

accounts will indicate that some expenditure of the Trust “is paid by Kirby Muxloe Parish Council as grant-in-kind”. The Charity Trustee meets on a regular basis to review land management, risks and policies held.

Revision History

Date of revision: **22/01/2015**

Revision:

Page 1, para 1: **delete** “governance and direction” and **insert** “administration”

Page 1, para 1: **delete** “these policies have been approved in consultation with NALC, and with the appropriate advice from the Charity Commission”

Page 1: 1st para: **1. Background:** delete and replace with: *The registered charity no 521441 was created in 1962. The Trust Deed (see Appendix 1 for a transcript) dated 4th June 1920 concerns an area of land off Station Road, Kirby Muxloe and was conveyed to the Recreation Ground Charity in 1962.*

Page 1: 2nd para: **delete and replace with** – “The Trust Deed...

Page 1: 2nd para: **2. Sole managing trusteeship – delete** “the ownership of the land is always vested in the Official Trustee of Charity Lands (Originally conveyed 4th June 1920)”;

Page 3: **3.3.1 Banking** – **delete** 1st para and **insert** “A separate bank account for the Charity is required as the charity receives income from its activities (such as Library rent)”.

Page 3: **3.3.2 Accounts** – **delete** para 1, 2 and 3 and **insert**: *Where the Parish Council, as Trustees of the management of the Recreation Ground, have incurred expenditure in fulfilling their responsibilities for the management of the land (e.g. grass cutting, fence repairs etc.), such expenditure should be entered into the council’s own cashbook. The cashbook should also include an analysed cost centre solely for income and expenditure relating to the charity in order that total charity income and expenditure can be easily viewed.*

For example a monthly grass cutting payment that covers all the Parish Councils land should be apportioned (according to approx. acreage) between the cost centre specifically for the charity and other cost centres that the council may have for its own ground maintenance.

A yearly “Maintenance Charge” in respect of the expenditure as recorded above will be invoiced by the Parish Council to the Charity Trust taking into account the yearly income received by the Charity Trust and any expenditure incurred over and above this yearly charge will be treated as “gifts-in-kind”.

Page 4: **3.3.3 Financial Reserves:** **delete** para and **insert** “A provision for a separate financial reserve should be earmarked taking into account the yearly income and expenditure.

Page 4: **3.3.4 VAT** – **delete** para and **insert** “The council may reclaim VAT incurred on any invoice relating to the charity where it has agreed to pay this as a grant-in-kind to the charity. Therefore the council can reclaim VAT on fencing works, grass cutting etc. as long as the relevant invoice is addressed to it and a suitable power has been identified to allow the expenditure to take place”.

Page 4: **3.3.5 Asset Register** – 1st para: **delete** the words “e.g. skate park, youth shelter etc.”

Page 5: **c. Annual Accounts** – **delete** para 1 and 2 and **insert** “All charities are required to produce accounts. Under this policy the charity will produce accounts on a receipts and payments basis. The accounts will indicate that some expenditure of the Trust “is paid by Kirby Muxloe Parish Council as grant-in-kind”. The Charity Trustee meets on a regular basis to review land management, risks and policies held”.

Page 5: **4. Parish Council owned land at the Recreation Ground** – remove completely.

Approved by: meeting of the Trustees 22/01/2015 ref : **Trust/033/14-15**

Date of revision: 06/08/2015

Revision:

Page 1: 2nd para: **1. Background:** delete and replace with: The Trust Deed specifies that the land should be “assigned forever for the purposes of public pleasure grounds”

Page 3: Asset register: 1st para, insert after “being grants-in-kind to the charity by the council” the word “including” and continue with “certain capital items which have been previously purchased by the council with grant-aid from external bodies”.

Approved by: meeting of the Trustees 06/08/2015 ref : **Trust/005/15-16**