

Minutes of a meeting of the **SOUTH HOLLAND DISTRICT COUNCIL** held in the Council Chamber, Council Offices, Priory Road, Spalding, on Wednesday, 11 December 2013 at 6.30 pm.

**PRESENT**

|                |                |               |
|----------------|----------------|---------------|
| F Biggadike    | G K Dark       | R Perkins     |
| B Alcock       | R Gambba-Jones | P S Przyszlak |
| G R Aley       | R Grocock      | M D Seymour   |
| D Ashby        | M Howard       | A C Tennant   |
| C J T H Brewis | H R Johnson    | S Wilkinson   |
| G J Taylor     | J L King       | A R Woolf     |
| A Casson       | C J Lawton     | C N Worth     |
| M G Chandler   | A Miller       |               |
| R J H Creese   | A M Newton     |               |

Apologies for absence were received from or on behalf of Councillors J Avery, M D Booth, S M Booth, R Clark, P E Coupland, A Harrison, G A Porter, A Puttick, R M Rudkin, S-A Slade, E J Sneath and D J Wilkinson,

In Attendance: Chief Executive, Legal Services Coordinator and Leisure Facilities Manager.

**111. DECLARATIONS OF INTEREST.**

There were none.

**112. SIR HALLEY STEWART PLAYING FIELD BOOKING FORM AND COUNSEL'S OPINION AND RESPONSE TO THE CHARITY COMMISSION**

The Council considered agenda item 3: 'Sir Halley Stewart Playing Field Booking Form' and agenda item 5: 'Counsel's Opinion and Response to the Charity Commission' together as one item.

Members discussed the proposed booking form for the playing field and the following key points were made:

- That the proposed booking form should take the form of a 'Hirer Agreement' with numbered paragraphs;
- It should not imply that use is restricted to the playing of football or by clubs, and therefore change the word 'club' to 'hirer';
- Under 'Availability' use the word 'facility' not just 'pitches';
- Guidance should be provided on the forms as to who would take priority in the event of a request for two events at the same time; and

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- It should be clarified whether vehicles are allowed on the pitches
- Accessibility of the facility to individuals and groups should be publicised

It was agreed that the booking form would be re-drafted, circulated to all Councillors for comment and that the Leisure Facilities Manager be given delegated authority to agree the form in the light of any comments received.

With regard to responding to the Charity Commission, Members noted that Counsel's opinion had been received and previously circulated. The Legal Services Coordinator informed the Council that the opinion could be summarised as follows:

- The Council held the field upon trust to allow the field to be used in perpetuity as a playing field for the benefit of the inhabitants of Spalding. Use of the playing field for sport (individually or as part of a team) was in line with the principal purpose of the trust.
- Use for sport and recreation could be charitable, subject to there being sufficient public benefit. To be of sufficient 'public benefit' it must be shown that there was a community benefit to a sufficient number and range of inhabitants
- The Charity Commission argued that a booking system and enclosure/locking of the facility prevented sufficient access to the public. This was not a convincing argument because (a) a booking system was necessary for proper management of the facility; and (b) enclosure/locking was necessary to protect the trust assets from damage (such as vandalism) and to regulate use.
- It was a judgment for the Trustees as to what benefits the Charity should provide and how to ensure that there was sufficient access. A conclusion was to be reached in light of the circumstances of the individual charity - rather than there being a single conclusive test.
- Charity Commission guidance acknowledged that a charity may charge fees, as long as they do not exclude people of modest means. South Holland District Council's fees policy has a range of fees; including nil charge in appropriate circumstances.
- Booking records showed a range of uses and users such as athletics and a 'fun-day'.
- The Council, as Trustee, had taken account of the Charity Commission Guidance and external legal advice and as a result was amending its booking form to make it clear that individuals and other small organisations were able to book the facility.

Councillors agreed that Counsel be requested to reply to the Charity Commission on behalf of the Council on the basis of his advice as summarised by the Legal Services Coordinator.

Members also discussed whether there was merit in considering whether use of the field could extend beyond use only for sport; and whether such extended use would remain within the objects of the charity. It was agreed that a Scrutiny Task Group be set up to look into this matter and to report back to Council and that use of the field, in light of Charity Commission guidance, be reported to Council on an annual basis..

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**DECISION:**

1. That the booking form for the Sir Halley Stewart Playing field be revised in the light of comments received at the meeting and that delegated authority be given to the Leisure Facilities Manager to finalise the form following consultation with all members;
2. That Counsel be requested to reply to the Charity Commission on behalf of the Council, on the basis of his advice as summarised by the Legal Services Coordinator;
3. That Counsel be asked a supplementary question to determine whether the Trustees can permit other recreational uses in addition to sporting use within the objects of the charity; and
4. That a Task Group be established to consider whether it is possible for the Council to change the deeds and, if so, whether they should be changed and to make recommendations back to the Council.

(The meeting ended at 7.35 pm)

(End of minutes)