

## **Guidance Note**

### **The Role of South Holland District Council in relation to Sir Halley Stewart Playing Field**

**(January 2013)**

This Guidance Note has produced based upon information supplied by Lincolnshire Legal Services.

#### **Background**

The Sir Halley Stewart Playing Field was conveyed to the Urban District Council of Spalding on 6 October 1951. By a later trust deed dated 4 October 1952 made between the Urban District Council (1) and the original Trustees (2) it was agreed that

‘The Council shall stand possessed of the Field Upon Trust to allow the same to be used in perpetuity as a playing field to be called “The Sir Halley Stewart Playing Field” for the benefit of the inhabitants of the Town of Spalding ..”

The South Holland District Council is successor to the Urban District Council of Spalding and is therefore the trustee. The trust is also a charity registered number 1084450. The Council acts as trustee as a single body and decisions relating to its use are for the Council as a body to make, not for an individual portfolio holder.

#### **Responsibilities of trustees**

The role of trustees is set out in Charity Commission guidance which states that

‘Trustees have, and must accept, ultimate responsibility for directing the affairs of their charity; ensuring that it is solvent and well-run, and delivering the charitable outcomes for the benefit of the public for which it was set up.’

The Charity Commission further advises that if, as a councillor, you attend charity meetings or deal with its administration and the Council is itself the charity trustee, then you are not a trustee and do not have the responsibilities or liabilities of a trustee, and you may simply be managing the charity’s affairs on the Council’s behalf.

Trustees must ensure that their charity complies with:-

- Charity law and the requirements of the Charity Commission

- The requirements or rules, and the charitable purpose and objects, set out in the charity's own governing document
- The requirements of other legislation and other regulators (if any) which govern the activities of the charity, which will vary according to the type of work the charity carried out
- The requirement for trustees to act with integrity and avoid any personal conflicts of interest or misuse of charity funds or assets

Trustees must:-

- Ensure that the charity is and will remain solvent
- Use charitable funds and assets wisely and to further the purpose of the charity
- Avoid undertaking activities which might place the charity's property, funds, assets or reputation at undue risk
- Take special care when investing the funds of the charity or borrowing funds
- Exercise reasonable care and skill as trustees, using personal knowledge and experience to ensure that the charity is well-run and efficient
- Consider getting external professional advice on all matters where there may be material risk to the charity, or where the trustees may be in breach of their duties

There is guidance on the Charity Commission website called 'Councillors' guide to a council's role as charity trustee'.

### Practical Application

Strictly speaking no decisions of the charity should be delegated, as it is the Council as a body which should make the decisions. As previously stated above, Councillors are not trustees individually.

Any report recommending changes to the field or its use should be submitted to full Council for consideration, and should include a legal background.

### Further information

Charity Commission

[www.charity-commission.gov.uk](http://www.charity-commission.gov.uk)

Trust Deed to Sir Halley Stewart

[www.sholland.gov.uk/leisure/bookanevent/SirHalleyStewartPlayingFieldFootball](http://www.sholland.gov.uk/leisure/bookanevent/SirHalleyStewartPlayingFieldFootball)