

Painswick Parish Council

Memo to all Parish Councillors

Subject: Recreation Ground Trust

The Recreation Ground Trust was created in February 1907 when Mrs Frances Sarah Williams conveyed the land to named trustees for use as a Recreation Ground. In January 1927 an application was made by two of the then trustees, Charles Perrins and Sir Francis Hyett to vary the Scheme in line with "The Charitable Trusts Acts, 1853 to 1925". The application was approved and the revised Scheme sealed on 1st July 1927. The 1927 Scheme specified that the Trustees should consist of five competent persons, being two Representative Trustees and three Cooptative Trustees. The Representative Trustees were to be appointed by the Parish Council of Painswick. The Cooptative Trustees were to be persons residing or carrying on business in or near Painswick.

In 1953 the Parish Council made an application to the Ministry of Education to create a new Scheme given that the Trustees named in the 1927 Scheme were "no longer in existence". The Ministry of Education stated that the Parish Council could sign the application as persons administering the Foundation (Recreation Ground Trust) in accordance with the provisions of Section 43 of the Charitable Trusts Act, 1953. The application was approved and the Scheme amended to show that "The Foundation and its endowment (including the particulars specified in the Schedule to this Scheme) shall be administered in conformity with the provisions of this Scheme by the Painswick Parish Council as the trustee thereof". The Scheme was sealed on 15th July 1954.

In response to an inquiry from Painswick Parish Council in October 2000, the Charity Commission confirmed that "It is the body corporate, the Parish Council, that is the "charity trustee" and not the individual councillors themselves. As such, the duties and responsibilities (and potential liabilities) of being a trustee falls on the Council in its corporate capacity rather than individual councillors that make up that respective local authority body".

As a result of past advice from the Charity Commission, the Parish Council had set up the Recreation Ground Trust "committee" in order to ensure the Trust's discrete status necessary to carry out its function as a charity. As stated above, the members of the committee were not "charity trustees" as defined by s. 97 (1) of the Charities Act 1993. In order to avoid possible conflict between the committee and the Parish Council, it was agreed that the committee should comprise the twelve members of the Parish Council.

Terry Parker