

## **Clarification of the Original Advice received from Brachers arising from questions from the Clerk**

1. Can I clarify if the BSA want to build anything on the land leased to them they will require permission of the Trust. This is referred to in our report but our conclusion is that they should seek permission from the landlord. Please do confirm if you would like us to seek a further view from our property team. Am I right in assuming that the BSA have a lease on the land to 3 August 2115. Yes, this is confirmed.

2. In the first paragraph of Section 2 Management Committee you refer to the Council but is that the Council in its role as Trustee. The trust document is not entirely but yes I would assume that it is the Council in its role as trustee.

3. In the last paragraph of Section 2 you state it may be "possible" for the Trustees to abolish the Committee of Management but it would have to be agreed and minuted by the Trust. Will this be possible do without changing the Trust Deed and without the permission of the Charity Commission. This is not clear but it is thought that if the Committee of Management (CoM) is to be abolished, it would need itself to minute its decision for the CoM to be abolished and the trustee would also need to minute its approval of this and seek confirmation from the Charity Commission of the decision.

4. I am unsure of the relationship of the Committee of Management Committee and the Trust. Would the CofM make decisions for appointing a grass contractor and make payment and other similar day to day management and would they need the agreement of the Trust for these decisions, I would have thought not. The Trust would make decisions relating to the Trust deed and about the overarching aspects of the land such as discussions with the BSA. Or have I got this wrong?

The role of the CoM is not clear. Clause 9 suggests that they themselves need to propose the remit of their role to the trustee for the trustee's approval.

Therefore, the trustee should put the CoM in place and then they can either decide to abolish the CoM (subject as above) or propose the remit of their role (with clarity) for trustee approval on how the relationship will work.

5. In Paragraph 4 on the specific queries second paragraph please delete the reference to the figure as it is wrong, my error, I overestimated the electorate. Now done, please see attached revised document.

6. Your advice is that the simplest route is that the Parish Council purchase and continue to own the play equipment including maintaining it. I would assume that the Trust would need to confirm the location and that they agree to the Council putting the equipment on the land. Correct.

## **Further Clarification of the Original Advice received from Brachers arising from questions from the Clerk**

1. In respect of your response to 3 are you saying that the CoM has to recommend to the Trust its own abolition. Can the Trust abolish it without this recommendation. But whatever happens ultimately any recommendation to abolish will require the approval of the Charity Commission Yes, the terms of the trust stipulate that a CoM has to be in place. Clause 9 specifies that the CoM can stipulate its own terms of business. As such, we construe this to mean that the CoM needs to be in place first and can then decide to abolish itself. The trustee can ratify this decision to abolish the role or appoint new membership of a new board of CoM. If the decision is to abolish the role of CoM then this should also be ratified by the Charity Commission.

2. In respect of 4 the CoM can propose its own remit for approval by the Trust or the Trust can propose the remit of the CoM itself, but the remit of the CoM has to be agreed by the Trust. Agreed.