

Bath & North East Somerset Council		
MEETING:	Council	
MEETING DATE:	10 th November 2016	
TITLE:	Charitable Trust Board – amendments to Terms of Reference	
WARD:	All	
AN OPEN PUBLIC ITEM		
List of attachments to this report: Appendix A		

1 THE ISSUE

- 1.1 The Charitable Trust Board has now met twice. At its last meeting on 4th October it made recommendations which Council are asked to ratify as outlined in section 2 below.

2 RECOMMENDATION

- 2.1 To recommend to Council that the Charitable Trust Board's terms of reference are amended as detailed in Appendix A to permit the following:
- 2.1.1 Decisions about requests for works to be undertaken, or events to be approved that fall outside of the Charitable Trust Board cycle be delegated to the Chair of the Trust Board in consultation with the Lead Officer to decide (as detailed in Schedule 1 & 2 of Appendix A).
 - 2.1.2 That urgent works required under health and safety legislation be delegated to the Lead Officer to action promptly (as detailed in Schedule 1 & 2 of Appendix A).
- 2.2 That the Terms of reference (TOR) of the Charitable Trust Board are amended so as to move the land, Free Fields (Rainbow Woods) into Schedule 1 of the Board's Terms of Reference so that its responsibilities as trustee are delegated to the Board, now that it has been established that this is a trust for which the Council is sole corporate trustee.

3 RESOURCE IMPLICATIONS (FINANCE, PROPERTY, PEOPLE)

- 3.1 The Council maintains these sites within existing budget & resource allocations. The cost of these services represents a grant "in-kind" to the relevant charitable trust. The value of this varies dependent on the trust and the required volume of works in any

financial period, as an example the Alice Park Trust has historically been in the region of £30k to £50k per annum.

4 STATUTORY CONSIDERATIONS AND BASIS FOR PROPOSAL

- 4.1 Where a Council is the sole trustee of a charity, it is the corporate body, acting in accordance with its usual procedures, which is the trustee. While ongoing management may be delegated to a committee and officers, responsibility for decision making and oversight rests with all councillors. The Terms of Reference of the Trust Board therefore require that it reports to full Council on an annual basis after it has filed all annual reports for the charitable trusts that it manages on behalf of the Council with the Charity Commission.
- 4.2 The management of the Trust(s) should be kept separate, as far as possible, from the business of the Council and equally the finances of the Trust(s) must be kept separate from those of the Council. The assets must be accounted for separately and income and expenditure needs to be channelled through discrete cost centres. The Council may top up the finances of the Trust(s) but no funds should pass from the Trust into the Council's own accounts although, in appropriate cases, the Council may recover the cost of administering the Trust(s)
- 4.3 It is proposed that if members resolve to amend the terms of reference of the Trust Board (as detailed in Appendix A) to include Free Fields in schedule 1 of the TOR, the Trust Board would in turn delegate its operational management functions to a sub-committee formed specifically for each charitable trust in Schedule 1 of the Terms of Reference of the Trust Board. In that way the Council can ensure the assets of each Trust are separately considered and administered and a distinct audit trail will be created. A report will be brought back to the Charitable Trust Board on the most efficient governance proposals for Free Fields.

5 THE REPORT

- 5.1 This report brings the recommendations detailed in the minutes of the Charitable Trust Board 4th October meeting to full Council for ratification.

6 RATIONALE

- 6.1 The Charitable Trust Board must seek ratification from the Council for decisions taken at the earliest opportunity.

7 OTHER OPTIONS CONSIDERED

- 7.1 None.

8 CONSULTATION

- 8.1 Monitoring officer, Section 151 officer, Property Services, Strategic Director Place.

9 RISK MANAGEMENT

- 9.1 A risk assessment related to the issue and recommendations has been undertaken, in compliance with the Council's decision making risk management guidance.

Contact person	<i>Carol Maclellan, Group Manager Neighbourhood Environmental Services</i>
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Background papers	https://democracy.bathnes.gov.uk/ieListDocuments.aspx?CId=577&Mid=4844&Ver=4
Please contact the report author if you need to access this report in an alternative format	

Appendix A

Charitable Trust Board Terms of Reference

The purpose of the Charitable Trust Board is to facilitate the management of the Charitable Trust for which the Council is the sole trustee; independently, in accordance with their governing documents and in the best interests of the charity.

In respect of the charities listed in Schedule 1 the Charitable Trust Board shall have the following powers delegated to it.

The Role of the Board is to exercise the powers delegated to it for the management of the trust, namely;

- ☐ to manage the charity in pursuit of the charitable purposes,
- ☐ to manage the finances of the charity and ensure its solvency,
- ☐ to ensure the charity acts within the governing documents,
- ☐ to ensure the charity deals with their regulatory and public accountability obligations, and
- ☐ to identify and manage potential conflicts of interest.

In respect of the charities listed in Schedule 2 the Charitable Trust Board shall investigate the governing documents of each charity and recommend to Council the inclusion of any Charity suitable for incorporation into Schedule 1 and until such time as the Council decides to delegate its functions in respect of such Trust to the Charitable Trust Board it shall advise the Council as trustee on;

- ☐ the strategic direction of those Trusts,
- ☐ the financial resources needed to operate those Trusts;

The Charitable Trust Board shall, in respect of all Trusts, ensure compliance with the Charity Commission's registration and reporting requirements and periodically consider if Trust's assets could be consolidated and more efficiently /effectively used in conjunction with another Trust. Where appropriate it should consult on consolidation proposals with the Charity Commission and interested parties and make any recommendations for consolidation in its annual report to Council.

The Board will comprise:

- ☐ Five councillors
(to include the Cabinet member responsible for Community Services and at least one councillor who is not a member of the controlling group but whose appointment is determined by the controlling group), and
- ☐ One independent person with suitable skills, experience or interests to be appointed by the Board from applicants who wish to be considered following advertisement of the role.

The Board will elect a Chair and Vice-Chair. Decisions will be by a majority of the councillors present. Quorum will be three councillors.

The Board shall have the power to create a sub-committee for each charity listed in Schedule 1 to ensure that each charity shall be separately administered. Each subcommittee shall consist of at least 3 councillors and co-opted non-voting members consisting of the ward councillor(s) for the area where any land subject to the Trust is situated and any other non- voting members who may be able to assist it in its work.

The Trust Board and each sub-committee shall undertake its duties through meetings as required and will meet at least twice annually.

In any meeting, the affairs of each Trust will be considered separately and in relation to the purpose and governing document of each Trust.

Each sub-committee will report annually to the Trust Board after submitting any annual report to the Charity Commissioners and the Trust Board shall thereafter provide an annual report to

Council on the financial standing of each Trust and update the Council on the work undertaken by each Trust in the preceding year.

Support for the Board and sub-committees as necessary will be provided through the relevant Council sections. Lead advisors will be identified for each charitable Trust in Schedule 1.

Decisions about requests for works to be undertaken, or events to be approved that fall outside of the Charitable Trust Board cycle be delegated to the Chair of the Trust Board in consultation with the Lead Officer to decide.

Urgent works required under health and safety legislation be delegated to the Lead Officer to action promptly.

Schedule 1

Charitable Trust for which the Council is sole trustee

The Alice Park

Free Field (Rainbow Woods)

Schedule 2

Charitable Trust for which the Council is responsible

Weston Recreation Ground

No.4, Circus

Firs Field

Beechen Cliff

Newbridge Meadows (Queen Elizabeth the Second Fields)

Backstones

Innox Park

Post Office Museum

Former Radstock Infant School