

**A PROPOSAL FOR THE STRUCTURE
AND MANAGEMENT OF
THE ALICE PARK CHARITY**



June 2019

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1. BACKGROUND AND OBJECTIVES

The Alice Park was bequeathed to the City of Bath in 1937 by Mr H M MacVicar in memorial of the death of his wife, Frances Alice Harriet MacVicar, with the purpose of being run as a public park.

The original conveyance details the Trustees and subsequent appointment procedures but also states that the Park must be managed by no less than five, and no more than seven Trustees.

In December 1973 the original conveyance was converted, by order of the Charity Commission, to The Alice Park charity with the Trustees being 'The Mayor, Aldermen and Citizens of the City of Bath' with Bath and North East Somerset being the sole Trustee. For the period of 1996 – 2016 it appears Bath and North East Somerset Council (BANES) were operating as the owners of Alice Park rather than Trustees and that there were a number of issues with this model of administration.

For this reason, in 2016 BANES recognised that a more transparent model was required to create a visible distance between BANES and Alice Park.

This led to the establishment the Alice Park Trust Sub-Committee with the Council remaining as the sole corporate trustee and with the administration delivered by the new Alice Park Trust sub-committee. This committee comprises six Trustees, although only three elected Councillors are eligible to vote on issues of the Sub-Committee.

At the time of the establishment of the Alice Park Trust Sub-Committee it was also recognised that Alice Park, and its associated properties and infrastructure, were left to the people of Bath and whilst the establishment of the Alice Park Trust Sub-Committee went some way to distancing the Council from the Park with BANES as sole corporate trustee it was not necessarily an optimal solution.

However, most people will still believe that Alice Park is a Council Park, like all of the others in the City and this perception is one of the fundamental issues that needs to be rectified.

At the same time, in a broader context there are pressures on public finances and all of public resources, including parks and green spaces are subject to added pressures and scrutiny.

Bath and North East Somerset recognise this and in 2018 BANES and other key partners received funding from NESTA to establish the Bristol and Bath Parks Foundation which appears to be looking at new models and approaches to managing parks and green spaces.

The purpose of this document is to set out a potential framework for taking The Alice Park back to a model that more closely resembles the Mr McVicar's original vision for the Park by giving it a structure that enables it to once more be run by 'The Mayor, Aldermen and Citizens of Bath'.

These proposals are intended to represent the best interests of Alice Park by providing it with a clear and independent structure that withstands public scrutiny and is both sustainable and financially viable.

It is intended to allow the Alice Park Charity to work collaboratively with BANES but at the same time to be a truly independent charity that can flourish in its own right and therefore reduce the burden and onus on BANES which, as with all local authorities, is undergoing a sustained period of stress.

2. THE ALICE PARK CHARITY STRUCTURE

Alice Park is currently set up as a Charitable Trust with the Council as the sole Corporate Trustee and with six Trustees appointed to the Alice Park Sub-Committee.

Four of the Trustees are Bath and North East Somerset elected Councillors and two are independent but only three of the elected BANES Councillors are eligible to vote, although all six Trustees are personally liable. The Council have however advised that they have effectively indemnified all the individual trustees.

Whilst this begins to distance Alice Park from BANES, the fact that the BANES is the sole Trustee of the Park and that only elected Councillors have voting rights does engender the perception that Alice Park is a BANES park and subject to political influence.

Most people though would not be able to differentiate these nuanced details and if asked are most likely to respond that Alice Park is “a Council Park”. This is backed up by various signs around the park that clearly give the impression of it being a Council Park.

To return Alice Park back to the original vision of Mr McVicar there needs to be a considerable shift in public perception so that it is realised that Alice Park is an independent organisation which is wholly independent in its decision making.

This marries with one of the publicly stated aims of the Alice Park Trust sub-committee which is to help the Park become a truly independent entity.

The most obvious way to do this is to completely remove Alice Park from the auspices of BANES and there are various structures that can be used for charities of this nature.

2.1 Organisational Structures

Of the available options, non-corporate charities are unable to directly hold property and also have difficulty in engaging in standard commercial tasks i.e. commercial contracts, hiring staff which rules them out as Alice Park owns and leases property.

There are also various types of corporate charitable structures, such as Community Interest Companies (CICs), Charitable Incorporated Organisations (CIOs) and Charitable Companies Limited by Guarantee.

Charitable Incorporated Organisations (CIOs) have no requirement to file accounts at Companies House and therefore lack the transparency that is key.

Community Interest Companies are complex to establish and are typically used when the company / organisation is not a formal charity.

The model that appears to best fit the requirements of Alice Park is a Charitable Company Limited by Guarantee. This model has a number of advantages, namely:

- A requirement for accounts to be filed at Companies House, giving the required transparency;
- The charity can own property, enabling the property and leases to be in the name of the charity so that the charity can manage its own income;

- The charity will be able to contract directly with ‘suppliers’, including BANES;
- The charity is liable, not the individuals (although they are indemnified);
- The charity has a board of directors and can also have a membership – the ‘friends of Alice Park’;
- A structure of this nature would enable the charity to directly apply for funding, receive sponsorship, donations and bequests with the clear corporate structure making it easy for potential funders to understand;
- The clear and transparent structure will enable Alice Park to forge its own brand identity which is likely to appeal to ‘Friends of Alice Park’ as well as to the general public and users of the Park;
- Launching the Alice Park Charity as a separate entity will provide BANES with an opportunity for positive reputational gain.

2.2 Governance and Accountability

As per the Charity Commission Guidance, the Charity will need a Governing Document and it is anticipated that the existing Governing Document can be updated and amended in line with Charity Commission and Companies House guidance.

As per the original conveyance, the new board will consist of five – seven members with the first Board selection being managed by the Corporate Board.

This does not need to be an onerous task and the task of establishing a Charitable Company Limited by Guarantee is something that the accountants Richardson Swift are prepared to do.

It is envisioned that the new board will comprise five – seven appropriately qualified potential directors who will stand for an initial period of 12 months.

Again, the appointment of the new board is not an onerous task and the individuals for the board can simply be approached and requested to sit on the board, as long as they are suitably qualified and the proposers undertake to do this.

It is also anticipated that, as BANES will still be providing support to the Charity, two of the Directors should be BANES councillors (nominated by BANES) to represent the interests of BANES.

The two council members will be sitting members and not subject to election and this will be written in the articles of incorporation.

A charitable board needs a broad range of skills, including but not limited to, accountancy (i.e. a qualified accountant to act as the Financial Officer), legal knowledge, events, fundraising, business, maintenance, PR & Comms etc.

The Charity Commission publish much guidance on Charitable Boards and the following links highlight the type of skill requirements.

<https://www.gov.uk/guidance/trustee-board-people-and-skills>

<https://www.gov.uk/government/organisations/charity-commission/about/publication-scheme>

After an initial 12-month period a board members election should be held with elections held periodically thereafter as specified in the Articles and Governing Document. The 'electorate' for the board will be the Alice Park membership or 'Friends of Alice Park'.

The Board will, as it does now, hold quarterly meetings so that members can attend to ask questions and there will be an annual meeting open to the public. The Board can obviously meet more frequently on an as and when necessary basis.

It should be noted that the Alice Park Charity Board will operate as any company board does, with a consensus approach representing the best interests of the Park, and with a Chairperson to run the board and ratify final decisions.

2.3 Friends of Alice Park

As a charity, the aim is to create a clear accountable structure that encompasses the 'Mayor, Aldermen and Citizens of Bath'.

An Alice Park Membership Scheme is being proposed, which will be branded as 'Friends of Alice Park'.

This is to be a membership scheme whereby all members are eligible to vote for the Board of the Alice Park Charity (other than the Council nominated board members). An annual membership fee/subscription will be payable by members and an amount of at least £10 is proposed, although it may well be that on further research a figure much higher than this can be achieved. Of course, individuals will be able to contribute more should they wish.

At this stage it is hard to accurately gauge the level of support there would be for this, but if a very non-scientific paper based survey undertaken by Alice Park Café in 2017 can elicit 327 responses and the café face book page has over 1,400 followers it is not difficult to imagine that an official Friends of The Alice Park Charity could easily have a minimum of 100-200 Friends who are more than happy to pay £10 generating the Charity £1,000-£2,000 in additional income. If higher rates are achievable this figure could be substantially higher but plans are based on the lower estimate.

With a cohesive communications strategy adopting on and offline media that celebrates the Alice Park Charity the membership base of the Charity could be significantly increased.

3. FINANCIAL OVERVIEW

The financial well-being of Alice Park is obviously of paramount importance and the Park must be demonstrably self-sustaining. With this in mind this document separates known profit and loss information from potential revenue streams.

It is well known that there are several historical and legacy issues surrounding Alice Park and its governance. Therefore, a fundamental assumption is that BANES will continue to provide support to Alice Park and there will be no charge to Alice Park Charity for these services.

This support will need to be formally agreed and documented in a Service Level Agreement (SLA) for a period to be agreed.

On this basis it is assumed that BANES will continue to provide the services that it currently does, namely:

- grass cutting;
- grounds maintenance and waste collection;
- tree maintenance;
- play equipment maintenance (subject to review);
- WC maintenance and cleaning (subject to review as detailed in 3.4).

3.1 Tenancies and Leases

There are three known existing leases on Alice Park, as follows:

- Alice Park Nursery
Lease date. 8 February 2008 for a term of 20 years
Review date of 8 February 2012 and every fourth year
- Tea Chalet
Lease date 4 September 2014 for a term of 6 years
Review date 4 September 2015 and each anniversary thereafter
- Public Convenience (see also 3.4)
Lease date. 27th March 2014 for a term of 20 years
Break clause 5 January 2029 – or with 12 months notice at any time
- Skate Park
A lease for the BANES skate park being located in Alice Park is currently being prepared

3.2 Current Income, Outgoings and Balance

Income Streams

Including the leases and other known revenue streams, based on 2018 accounts, income is derived from:

- Alice Park Nursery;
- Tea Shop;
- Tennis court hire charges;
- Events;
- Investment return.

Outgoings

From the 2018 accounts, the stated outgoings are:

- Grounds maintenance*;
- Play equipment maintenance*;
- Tree management*;
- Property maintenance.

Balance

- The net balance of monies held by Alice Park and a transfer of balance will need to be agreed, and a process for this will need to be agreed.

As previously stated, it is assumed that BANES are to provide certain services (*) under the terms of the SLA in which case Alice Park will show a surplus highlighting that Alice Park is financially viable.

It is however recognised that this overview is simplistic as it does not include figures for Healthmatic and the public conveniences (please see section 3.4) or any outgoings for insurance and other fixed overheads.

This overview also excludes potential new revenue streams that The Alice Park Charity will be able to leverage.

3.3 Potential Revenue Streams

The new structure will create the ability to generate new revenue streams which are not necessarily available to BANES. These include:

- Friends of Alice Park

The details of the scheme will need to be finessed but a friends of Alice Park Membership scheme, where the members vote for the Charities Board has potential to raise significant funds for the Park.

It is not unrealistic to anticipate membership for Friends of Alice Park being in the region of 100-200 people. If each member pays £10 for membership, then this will easily generate an income of £1,000 - £2,000 per annum.

An example of this is 'The Friends of Bathampton Meadows Riverside' where individuals are actually donating in excess of £10 per month with many of the Friends donating monthly by direct debit.

- Corporate and Personal Sponsorship

Alice Park will also be able to adopt a corporate sponsorship scheme. Typically, such a scheme is tiered with gold and silver levels and would be set up so that sponsorship would be for a two year period with the sponsors receiving publicity in return.

If three sponsors, one gold (£1,000 per annum) and two silver (£500 per annum) were to be brought on board this will give another £2,000 per annum but again, it is anticipated that this figure could easily be doubled.

To date, three companies have expressed provisional interest in becoming corporate sponsors. The solicitors firm, Mogers Drewett with pro bono services in kind and Tile and Flooring, Bath based on London Road who have expressed an interest in financially contributing.

The largest independent firm of accountants in Bath, Richardson Swift, have also offered their services to the Alice Park Charity and are happy to prepare and submit the Charities accounts.

Private individuals will also be able to sponsor activities in the park, such as a bench, a tree etc.

- Wills, Legacies and Donors
- Gift Aid
- Grants i.e. Avon Wildlife Trust

3.4 Public Conveniences

As a matter of priority for the new charity, the issue of the public conveniences at Alice Park will need to be fully understood, as will the contract with Healthmatic as these are the major outgoing to a third party for the Charity with a cost in excess of £13,557 in 2018 with no income shown.

Two options need to be investigated as a matter of priority. The first of these is to renegotiate the terms of the lease with Healthmatic to significantly reduce this cost.

Another option is a model adopted by BANES for the shop 'Leak' in Larkhall Square, which as part of its lease has to maintain the public conveniences that are part of the same building.

In this scenario, if Healthmatic are not prepared to renegotiate the terms of their lease then the Charity should terminate the lease forthwith (12 months notice if they are not prepared to terminate the lease earlier) after having negotiated with Alice Park Café to maintain the public conveniences as part of their lease review.

4. MANAGING THE TRANSITION

- 4.1 There is no reason that this transition cannot be done sooner rather than later so it has been assumed that the transition from Trust to Charity is completed in 2019.

The immediate tasks are:

- For the existing Trustees to review the proposal and agree in principal;
- To agree a timeframe for the change;
- Agree a working group to manage the change;
- Agree legal and solicitors teams;
- Drafting Governing Document;
- Agreeing financial status and balances.
- Open bank accounts;
- Preparing legal documents and conveyancing;
- Finding suitable Board members and establish Board;
- Prepare SLA between Alice Park Charity and BANES;
- Document 'Friends' scheme;
- Undertake legal work to ensure correct articles;
- Set up bank account and agree opening balance of bank account; seek charity commission approval for establishment of Alice Park Charity and transfer existing leases to Charity;
- Ensure process in place for Board Elections after 12 months.

- 4.2 Costing the Transition

In setting up the new company the only significant costs that will be incurred will be legal fees.

The legal fees basically fall into three areas as follows

1. A review of the Articles and memorandum of Association to ensure Legal compliance
2. The conveyance of the various properties to the Company
3. A review of all the leases and transferring or novating as required

It is believed that items 1 and 2 can be obtained on a pro-bono basis based on our discussions with local firms. There will however be a cost of various disbursements and a figure of £2,000 should cover those

Item 3 is critical to establishing a sound financial basis for the company and in our view proper legal advice will be required. Best estimates of the cost of obtaining this is £5,000

It is estimated that £7,000 will be needed to facilitate the transfer

- 4.3 Funding the change

Based on the above it would seem to be prudent that the charity would need say £10,000 to cover the initial set up.

The company would seek this funding in the following ways:

1. By seeking a legal firm that would be prepared to do the work at a discount or on pro-bono rates.

2. To seek a firm that would be willing to take a sponsorship package that could reduce the initial cost.
3. By utilising the legal team at BANES to undertake some of the work.
4. To seek a small cash grant from BANES
5. To make a public appeal when the principle has been agreed
6. To call upon the existing balance and investments of the charity
7. Derek Swift would also be prepared to underwrite any shortfall by way of an interest free loan to the Charity of up to £5,000

APPENDIX 1: CHARITABLE COMPANIES. MODEL ARTICLES OF ASSOCIATION