

Alice Park Trust.

Administrative Issues

Introduction

This discussion document is presented because, recently, there seems to have been confusion over the role of Bath and North East Somerset Council and the Appointed Trustees regarding the administration of Alice Park and the decision-taking process. This concern has been heightened by the fact that there have been a number of issues raised with both the Charities Commission and the local Charitable Trust Board relating to Alice Park.

It would be helpful to seek clarification so that decisions are taken in accordance with the law and associated guidance contained in the following:

1. The original Trust documents:
2. The revisions as required consequent upon the revisions of the Local Government in the Local Government Act 1972
3. The provisions of the Charities Act 2011 and the Charities Act 2016
4. Guidance both general and specific given by the Charities Commission as it relates to the Alice Park Trust.
5. Guidance Issued by the Local Government Association relating to the administration of Trusts by Local Authorities.

Clarifications

1. Ownership of Alice Park

According to the original Trust document, Mr. McVicar left the park in possession of the Trustees giving them the “uncontrolled” powers and responsibilities to apply the provisions laid out in paragraph 2 of the Trust Conveyance.

The provisions laid out in in Local Government and Charities Law are there to support the Trust and Trustees in carrying out that obligation. Advice and the provision of services by the Council is there solely to support the Trustees in discharging their responsibilities. Such support is very welcome both practically and financially.

Confusion arises because the council’s logo appears on many notices displayed in the park giving the impression that the park is their responsibility. This confusion could be resolved by two measures:

- a. That all notices posted relating to the discharge of the Trust’s functions should be in the name of the Trust.
- b. That all notices displayed on park premises and environment should be authorized by the Trust.

2. The Role of Trustees.

The 1972 Local Government Act makes it Clear that all voting Trustees must be elected members of the local authority. However, guidance from several sources is that in carrying out their responsibilities they must act solely in the interests of the Trust.

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The main issue to be clarified is:

- a. Any elected member has to accept that, in taking decisions on what is best for the Trust (where they represent the beneficiaries of the Trust) there may be a conflict of interest with decisions taken on overall council policy.
- b. If only elected members can be represented on working committees of the Trust, they are in danger of either being promoters of council policy which may conflict with Charity Commission guidelines, or if they withdraw, they ensure that the committee is inquorate and unable to function. In retaining overall responsibility, The Charitable Trust Board needs to consider practical ways of allowing the Alice Park Trust to operate.

3. Responsibilities of Trustees.

The Trust document imposing requirements and prohibitions on Trustees is part of the conveyance of Alice Park.

Briefly summarized the requirements and prohibitions are:

- a. to recognise Alice McVicar's birthday (November 27th.) by flying flags in the park at half-mast and laying a wreath on her grave in Batheaston Churchyard,
- b. Not to erect any building or structure in the park other than for the purposes of the park,
- c. To reserve 4 acres of the park exclusively for the use of those under 15 years old.
- d. The remainder of the park to be open to the public subject to such times and purposes that the Trustees decide
- e. The park should NOT be used for any religious or political purpose of any kind.

The trust can accept donations and raise charges for sports related activities.

It can enter into financial and other arrangements that will benefit the park.

Historically, the administration of park has not complied fully with these requirements and recently the Charities Commission has had to remind the Council and the Trustees of their obligations.

However, there has been and continues to be much that is good and innovative in the administration of Alice Park.

The following matters do need to be addressed by Trustees:

- The correct accounting and reporting procedures, as required by the Charities Commission.
- Ensuring that the Trust is on a secure financial base
- Meeting the Trust's obligations in respect of children. This would include more detailed requirements in relation to Safeguarding under Child Protection legislation.
- Meeting the overall requirements placed upon the Trustees under Health and Safety and Public Protection legislation.

To achieve this clarification, the role of Trustees needs to be detailed; decisions need to be taken and measures implemented, to promote a facility appreciated both by the residents of Bath and also by visitors from a wide area.

Graham Page – Independent Member.