

Democratic Services

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Date: 10 July 2013

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To: The Trustees of the Recreation Ground, Bath

Councillor David Dixon

Councillor Tim Ball

David Durdan

Don Earley

Chief Executive and other appropriate officers

Press and Public

Dear Trustee

Meeting of the Trustees of the Recreation Ground, Bath: Thursday, 18th July, 2013

You are invited to attend a meeting of the **Trustees of the Recreation Ground, Bath**, to be held on **Thursday, 18th July, 2013** at **6.30pm** in the **Council Chamber - Guildhall**.

The agenda is set out overleaf.

Yours sincerely



David Taylor
for the Trustees

If you need to access this agenda or any of the supporting reports in an alternative accessible format please contact Democratic Services or the relevant report author whose details are listed at the end of each report.

This Agenda and all accompanying reports are printed on recycled paper

NOTES:

- 1. Inspection of Papers:** Any person wishing to inspect minutes, reports, or a list of the background papers relating to any item on this Agenda should contact David Taylor who is available by telephoning Bath 01225 394414 or by calling at the Riverside Offices Keynsham (during normal office hours).
- 2. Public Speaking at Meetings:** Members of the public may make a statement of relevance to the matters on the Agenda. They may also present a petition or a deputation on behalf of a group. Advance notice is required not less than two full working days before the meeting (this means that for meetings held on Wednesdays notice must be received in Democratic Services by 4.30pm the previous Friday)

The public may also ask a question to which a written answer will be given. Questions must be submitted in writing to Democratic Services at least two full working days in advance of the meeting (this means that for meetings held on Wednesdays, notice must be received in Democratic Services by 4.30pm the previous Friday). If an answer cannot be prepared in time for the meeting it will be sent out within five days afterwards.

- 3. Details of Decisions taken at this meeting** can be found in the minutes which will be published as soon as possible after the meeting, and also circulated with the agenda for the next meeting. In the meantime details can be obtained by contacting David Taylor as above.

Appendices to reports are available for inspection as follows:-

Public Access points - Riverside - Keynsham, Guildhall - Bath, Hollies - Midsomer Norton, and Bath Central, Keynsham and Midsomer Norton public libraries.

For Councillors and Officers papers may be inspected via Political Group Research Assistants and Group Rooms/Members' Rooms.

- 4. Attendance Register:** Members should sign the Register which will be circulated at the meeting.
- 5. THE APPENDED SUPPORTING DOCUMENTS ARE IDENTIFIED BY AGENDA ITEM NUMBER.**
- 6. Emergency Evacuation Procedure**

When the continuous alarm sounds, you must evacuate the building by one of the designated exits and proceed to the named assembly point. The designated exits are sign-posted.

Arrangements are in place for the safe evacuation of disabled people.

Meeting of Trustees of the Recreation Ground, Bath - Thursday, 18th July, 2013

at 6.30pm in the Council Chamber - Guildhall

A G E N D A

1. ELECTION OF CHAIR

To consider nominations and elect a Chair

2. ELECTION OF VICE CHAIR

To consider nominations and elect a Vice Chair

3. EMERGENCY EVACUATION PROCEDURE

The Chair will ask the Administrator to draw attention to the emergency evacuation procedure as set out under Note 6.

4. APOLOGIES FOR ABSENCE

5. DECLARATIONS OF INTEREST

At this point in the meeting declarations of interest are received from Trustees in any of the agenda items under consideration at the meeting. Trustees are asked to indicate:

(a) The agenda item number in which they have an interest to declare; and

(b) The nature of their interest.

Any Trustee who needs to clarify any matters relating to the declaration of interests is recommended to seek advice from the Council's Legal Advisor before the meeting to expedite dealing with the item during the meeting.

6. TO ANNOUNCE ANY URGENT BUSINESS AGREED BY THE CHAIR

7. QUESTIONS AND STATEMENTS

To consider any Statements of relevance to items on the Agenda and any Questions notified to the Administrator 2 clear working days before the meeting

8. DECLARATIONS AND APPOINTMENT OF NOMINATED TRUSTEE

To confirm the appointment of Don Earley as the nominated Trustee for Fields in Trust and that the declarations of the first Trustees have been signed

9. GOVERNING DOCUMENT (Pages 5 - 22)

To consider and adopt the recommendations in the attached report

10. CONFLICTS OF INTEREST POLICY (Pages 23 - 30)

To consider and adopt the recommendations in the attached report

11. ADVISORS AND SUPPORT SERVICES (Pages 31 - 36)

To consider short and long term arrangements for advisors and support services as set out in the attached report

12. CO-OPTED TRUSTEES (Pages 37 - 42)

To consider a process for appointment of Co-opted Trustees as set out in the attached report

13. LEASE FOR TEMPORARY EAST STAND (Pages 43 - 46)

To agree terms of the lease for 2013/14 as set out in the attached report

14. WORK PROGRAMME

The Advisor to the Trustees to summarise the future work programme

15. DATE OF NEXT MEETING

To consider a date for the next meeting of the Board

The Administrator for this meeting is David Taylor who can be contacted on 01225 - 394414.

The Recreation Ground Trust, Bath	
Meeting:	Recreation Ground Trustees
Date:	18 July 2013
Title:	Governing Document
Status:	An open public item
Appendices:	1. Draft Governing Document

1. Purpose of report

- 1.1 To present a draft governing document to the trustees for consideration and adoption.

2. What is a governing document?

- 2.1 A governing document is a legal document which represents the rule book for the way in which a charity operates. It should contain information about;

- what the charity is set up to do (objects),
- how the charity will do those things (powers),
- who will run it (charity trustees),
- what happens if changes to the administrative provisions need to be made (amendment provision), and
- what happens if the charity wishes to wind up (dissolution provision).

- 2.2 It should also contain administrative provisions covering;

- how the charity trustees will run it, and
- internal arrangements such as for meetings, voting and looking after money.

- 2.3 There are various types of governing document. For charitable trusts, the relevant form is the trust deed.

3. A governing document for the Recreation Ground, Bath

- 3.1 A governing document for the use of the new trustee body has to be built from three sources.
- 3.2 The first is the existing trusts. These were contained in the conveyance of the Recreation Ground to the Council dated 1 February 1956. The trusts are given in the section starting; "... the Corporation forever hereafter shall manage let or allow the use ..." and ending; "... any particular person club body or organisation ..."
- 3.3 The second source is the Scheme confirmed by the Charity Commission on 12 June 2013. This makes provision for;
- the administration of the charity (clause 2)
 - powers (clause 4)
 - the custodian trustee (clause 5).
 - trustees (clauses 6, 7 and 8) and
 - quorum (clause 9).
- 3.4 The existing trusts and the provisions of the Scheme do not provide for all of the elements that a comprehensive governing document should contain. Section 280 of the Charities Act 2011 allows charity trustees to pass a resolution altering the powers and procedures of the trustees (but not the objects of the charity). It is therefore proposed that the relevant sections of the Charity Commission's Model Trust Deed should be adopted in order to provide suitable administrative detail to enable the charity to be conducted effectively.
- 3.5 If the trustees pass that resolution, the effect will be as shown in the resulting draft governing document given at appendix 1. The source of the various sections is shown by the colour of the text.

4 Financial implications

- 4.1 There are no financial implications to the adoption of the governing document.

5 Advice sought

- 5.1 The Trust's legal advisor has reviewed this report and her comments upon it have been incorporated.

6 Recommendation

6.1 It is recommended that the trustees pass a resolution in the following terms:

- (1) That the trustees adopt pursuant to the power conferred on them by s 280 of the Charities Act 2011 as part of their powers and procedures as charity trustees those provisions in the document which is set out in appendix 1 to the Report dated 18 July 2013 entitled "Governing Document" which are not already comprised in the Conveyance dated 1 February 1956 or the Scheme made by the Charity Commission on 12 June 2013.
- (2) That the terms of this resolution and of the said document are sent to the Charity Commission with details of the date and place at which it was passed.
- (3) That the new Governing Document be posted on the charity's website.

Contact	Tim Darsley, Recreation Ground Trust Project Advisor. Tel 01225 477221
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Appendix 1: Proposed Governing Document

Governing Document for The Recreation Ground, Bath (excluding the Bath Recreation Ground (Sports and Leisure Centre) Trust)

Purple text is taken from the existing trusts

Red text is taken from Scheme

Blue text is taken from Model Trust Deed (Charitable Trusts)

Green text is FQ wording or other edits.

THIS IS A COMPOSITE DOCUMENT CONTAINING RELEVANT PROVISIONS FROM THE CONVEYANCE DATED 1 FEBRUARY 1956, THE SCHEME OF THE CHARITY COMMISSION DATED 12 June 2013 AND THE RESOLUTION OF THE TRUSTEES DATED [].

1. Administration

- (1) The property of the charity identified in part 1 of the schedule is to be administered in accordance with the provisions of this clause.
- (2) From the date of this scheme, the property identified in part 2 of the schedule will be administered and managed by the trustees constituted by clause 6 of this scheme in accordance with the existing trusts as altered or affected by this scheme.
- (3) Until the Order is made, the property identified in part 3 of the schedule will continue to be administered and managed by the Council in accordance with the existing trusts as altered or affected by this scheme. For the avoidance of confusion, the property will (until the date of the Order) be known as The Bath Recreation Ground (Sports & Leisure Centre) Trust.
- (4) By the Order, the Commission will appoint (if it thinks fit):
 - (a) the trustees constituted by clause 6; or
 - (b) any charitable company or charitable incorporated organisation established by those trusteesas trustee of the property identified in part 3 of the schedule. At that date, the land identified in parts 2 and 3 of the schedule will constitute the property of a single charity.
- (5) The trustees constituted under clause 6 must (with the benefit of such professional advice as necessary):
 - (a) seek to negotiate and enter into binding arrangements with the Council in respect of the Sports and Leisure Centre for its on going

maintenance, including provision for the future demolition when the building is deemed life expired; and

- (b) when or if binding arrangements are validly executed, either:
 - (i) the trustees constituted under clause 6; or
 - (ii) the trustee of The Bath Recreation Ground (Sports & Leisure Centre) Trust,

must apply to the Commission for the Order.

The charity shall be administered by the trustees.

(In this deed, the expression 'the trustees' refers to the individuals who are the trustees of the charity at any given time. It includes the first trustees and their successors. The word 'trustee' is used to refer to any one of the trustees.)

2. Name

The charity shall be called 'The Recreation Ground, Bath'.

3. Objects

The use with or without charge of the whole or any part or parts of the property hereby conveyed for the purpose of or in connection with games and sports of all kinds tournaments fetes shows exhibitions displays amusements entertainments or other activities of a like character and for no other purpose and shall maintain equip or lay out the same for or in connection with the purposes aforesaid as they shall think fit but so nevertheless that the Corporation shall not use the property hereby conveyed otherwise than as an open space and shall so manage let or allow the use of the same for the purposes aforesaid as shall secure its use principally for or in connection with the carrying on of games and sports of all kinds and shall not show any undue preference to or in favour of any particular game or sport or any particular person club body or organisation.

4. Specific Powers

- (1) For the purpose of resolving the issues arising from the continuing occupation by Bath Rugby Club of the land contained in the 1995 lease, and in the event of the surrender of the 1995 lease, the trustees may (subject to sub-clause (2) below) exercise all or any of the powers in this clause.
- (2) Before exercising the powers conferred by this clause, the trustees must fully consider all options for the management of the land belonging to the

charity (including the option of making no changes to the current arrangements) and before adopting any option satisfy themselves that that option is in the best interests of the charity.

- (3) Sub-clause (4) applies only to the land:
 - (a) currently subject to the 1995 lease; and
 - (b) described in part 4 of the schedule to this scheme.
- (4) Subject to sub-clause (2) above and the conditions, the trustees may grant a lease or leases of the land and receive replacement land instead of, or in addition to, consideration by way of a capital sum and by way of further consideration. The conditions are:
 - (a) the term of any lease(s) must not exceed the unexpired term of the 1995 lease; and
 - (b) any replacement land must be suitable for the purpose of the charity.
- (5) In so far as any lease extends to the land described in part 4 of the schedule:
 - (a) no lease must be granted unless and until all necessary formalities (including the elapse of time if appropriate) have been properly performed and recorded to exclude sections 24 to 28 of the Landlord and Tenant Act 1954 in relation to that lease; and
 - (b) the lease must not permit the tenant use otherwise than as a site for a temporary stand (usually referred to as 'the east stand') or playing pitch or access areas and must require the site to be available as open space for use for the purposes of the charity for at least three months in each year.
- (6) In exercising the powers conferred by this clause, the trustees must:
 - (a) before accepting a surrender of the 1995 lease, satisfy themselves that they are doing so on the best terms reasonably available;
 - (b) satisfy themselves (having undertaken public consultation) that any land taken in exchange will:
 - (i) have suitable amenity value for the purpose of a recreation ground; and
 - (ii) be in a location that is reasonably accessible and suitable for the purposes of the Charity;
 - (c) before entering into any commitment to grant, accept a surrender of the 1995 lease or take any interest in land obtain (from a professional

valuer) a valuation of the land in question. A valuation must take full account of:

- (i) the special interest of Bath Rugby Club in securing a grant of the land in part 4 of the schedule and its marriage value with the existing land held under the 1995 lease for the purpose of proposed development by Bath Rugby Club; and
 - (ii) (in valuing any regrant of the 1995 lease) the other commercial uses which may be made within the current use class and under any planning permission that might reasonably be obtained for the land.
- (d) in granting any new lease of the land comprised in the 1995 lease:
- (i) ensure that the lease is non assignable, except to subsequent owners of Bath Rugby Club;
 - (ii) ensure that the lease contains a right of pre-emption should Bath Rugby Club cease to use the property as its principal site for professional rugby football;
 - (iii) require Bath Rugby Club to minimise disruption to local residents and to the users of the charity's land; and
 - (iv) give public notice in accordance with the provisions of s121 Charities Act 2011 (whether or not this would otherwise be required).
- (7) In exercising the above powers (and in administering and managing the charity), the trustees must:
- (a) act only in the best interests of the charity to further the charity's objects for the public benefit;
 - (b) act in good faith (meaning acting in a way that the trustees honestly believe to be in the best interests of the charity);
 - (c) take into account all relevant factors and disregard any irrelevant factors; and
 - (d) adequately inform themselves, including having regard to the views of those who have an interest in the charity.

5. Further Powers

The Trustees shall also have the following powers exercisable in the administration of the charity in furthering its objects:

- (1) To raise funds. In exercising this power, the trustees must not undertake any taxable permanent trading activity and must comply with any relevant statutory regulations.
- (2) To borrow money and to charge the whole or any part of the property belonging to the charity as security for repayment of the money borrowed. The trustees must comply as appropriate with sections 124 – 126 of the Charities Act 2011 if they wish to mortgage land owned by the charity.
- (3) To co-operate with other charities, voluntary bodies and statutory authorities and to exchange information and advice with them.
- (4) To establish or support any charitable trusts, associations or institutions formed for any of the charitable purposes included in the objects.
- (5) To employ and remunerate such staff as are necessary or desirable for carrying out the work of the charity.

6. Delegation

- (1) In addition to their statutory powers, the trustees may delegate any of their powers or functions to a committee of two or more trustees. A committee must act in accordance with any directions given by the trustees. It must report its decisions and activities fully and promptly to the trustees. It must not incur expenditure on behalf of the charity except in accordance with a budget previously agreed by the trustees.
- (2) The trustees must exercise their powers jointly at properly convened meetings except where they have;
 - (a) delegated the exercise of the powers (either under this provision or under any statutory provision), or
 - (b) made some other arrangements, by regulations under clause 22.
- (3) The trustees must consider from time to time whether the powers or functions which they have delegated should continue to be delegated.

5. Custodian Trustee

- (1) The Council will be the custodian trustee of the charity.
- (2) The Official Custodian for Charities is discharged in respect of the land identified in part 2 of the schedule. From this date, the land is vested in the Council as custodian trustee of the charity.

6. Trustees

- (1) When complete, the trustee body comprises:
 - 2 trustees nominated by Bath and North East Somerset Council
 - 1 trustee nominated by Fields in Trust
 - 1 trustee nominated by Somerset County Playing Fields Association
 - Not less than 3 co-opted trustees.
- (2) Except as provided for the first trustees, each appointment must be for a period of three years.

7. First trustees

- (1) The first nominated trustees are the persons listed in part 5 of the schedule to this scheme. They will hold office for the periods shown in the schedule.
- (2) The trustee to be nominated by Fields in Trust should be appointed as soon as possible after the date of this scheme.
- (3) At least three of the first co-opted trustees should be appointed as soon as possible after the first meeting in accordance with clause 8 below.

8. Co-opted trustees

- (1) When appointing co-opted trustees, the trustees must:
 - (a) identify the needs of the charity regarding skills or knowledge of its trustees; and
 - (b) consider the extent to which appointees demonstrate the skills or knowledge; and
 - (c) not appoint members of the Council.
- (2) Of the co-opted trustees, the trustees must appoint at least one whose skills and knowledge include an ability to represent those groups of beneficiaries that use the recreation ground, other than Bath Rugby Club.
- (3) In appointing co-opted trustees, the trustees must have regard to the desirability of advertising in the local and/or specialist press or using trustee brokerage services. Candidates must be asked to consider and declare any existing or potential conflicts of interest before appointment.
- (4) The appointment of a co-opted trustee must be made by the trustees at a meeting of which not less than 21 days' notice has been given.

- (5) An appointment may, but need not, be made before the date on which the term of office of an existing co-opted trustee comes to an end, to take effect on that date. In these circumstances:
 - (a) the appointment may not be made more than 3 months before the date on which the existing co-opted trustee's term of office is due to end; and
 - (b) any co-opted trustee whose term of office is about to come to an end must not vote in favour of their own re-appointment.

- (3) Apart from those Trustees who are named in the scheme of 12 June 2013 January 2013, every trustee is to be appointed by resolution passed by a majority of the trustees in office. In the case of nominated trustees, the person nominated shall be appointed. In the case of co-opted trustees or in the event that no candidate is nominated by the nominating body within three months of its being notified of the vacancy, the person appointed shall be selected by the trustees.

- (4) In selecting individuals for appointment as trustees, the trustees must have regard to the skills, knowledge and experience needed for the effective administration of the charity.

- (5) The trustees must keep a record of the name and address and the dates of appointment, re-appointment and retirement of each trustee.

- (6) The trustees must make available to each new trustee, on his or her first appointment
 - (a) a copy of this deed and any amendments made to it:
 - (b) a copy of the charity's latest report and statement of accounts

8. Eligibility for Trusteeship

- (1) No one shall be appointed as a trustee:
 - (a) if he or she is under the age of 18 years; or
 - (b) if he or she would at once be disqualified from office under the provisions of clause 11 of this deed.

- (2) No one shall be entitled to act as a trustee whether on appointment or on any re-appointment as trustee until he or she has expressly acknowledged, in whatever way the trustees decide, his or her acceptance of the office of trustee of the charity.

9. Termination of Trusteeship

A trustee shall cease to hold office if he or she;

- (1) is disqualified for acting as a trustee by virtue of sections 178 and 179 of the Charities Act 2011 or any statutory re-enactment or modification of that provision;
- (2) becomes incapable by reason of mental disorder, illness or injury of managing his or her own affairs;
- (3) is absent without the permission of the trustees from all their meetings held within a period of six months and the trustees resolve that his or her office be vacated; or
- (4) notifies to the trustees a wish to resign (but only if enough trustees will remain in office when the notice of resignation takes effect to form a quorum for meetings).

10. Vacancies

- (1) If a vacancy occurs, the trustees must note the fact in the minutes of their next meeting. **If the vacancy is for a nominated trustee, the trustees must notify the relevant nominating body as soon as possible and invite it to make a fresh nomination.**
- (2) Any eligible trustee may be re-appointed. If the number of trustees falls below the quorum, none of the powers or discretions conferred by this deed or by law on the trustees shall be exercisable by the remaining trustees except the power to appoint new trustees.

11. Ordinary Meetings

The trustees must hold at least **four** ordinary meetings each year. One such meeting in each year must involve the physical presence of those trustees who attend the meeting. Other meetings may take such form, including videoconferencing, as the trustees decide, provided that the form chosen enables the trustees both to see and hear each other.

12. Calling Meetings

The trustees must arrange at each of their meetings the date, time and place of their next meeting, unless such arrangements have already been made. Ordinary meetings may also be called at any time by the person elected to chair meetings of the trustees or by any two trustees **or by the clerk to the trustees**. In that case, not less than ten days clear notice must be given to the other trustees.

13. Special Meetings

A special meeting may be called at any time by the person elected to chair meetings of the trustees or by any two trustees. Not less than four days clear notice must be given to the other trustees of the matters to be discussed at the meeting. However, if those matters include the appointment of a trustee or a proposal to amend any of the **provisions of the trusts of the charity pursuant to s 280 of the Charities Act 2011**, not less than 21 day's notice must be given. A special meeting may be called to take place immediately after or before an ordinary meeting.

14. Chairing of Meetings

- (1) The trustees at their first ordinary meeting in each year must elect one of their number to chair their meetings. The person elected shall always be eligible for re-election. If that person is not present within ten minutes after the time appointed for holding a meeting, or if no one has been elected, or if the person elected has ceased to be a trustee, the trustees present must choose one of their number to chair the meeting.
- (2) The person elected to chair meetings of the trustees shall have no other additional functions or powers except those conferred by this deed or delegated to him or her by the trustees.

15. Quorum

- (1) **Except as provided in sub-clause (2) below, no business may be transacted at a meeting unless at least 3 trustees are present.**
- (2) **At least 5 trustees must be present at a meeting before any decision can be taken to exercise a power contained in clause 4 above.**

16. Voting

At meetings, decisions must be made by a majority of the trustees present and voting on the question. The person chairing the meeting shall have a casting vote whether or not he or she has voted previously on the same question but no trustee in any other circumstances shall have more than one vote.

17. Independence

The trustees must:

- (1) exercise their own independent judgement solely in the best interests of the charity;
- (2) ensure that the charity is independent and exists to pursue its own purposes and not to carry out the policies or directions of the Council or of any other body;
- (3) at their first meeting (or as soon as possible thereafter), adopt a conflicts of interest policy (taking account of the guidance issued by the Commission) and adequately manage any conflicts of interest in accordance with that policy.

17 Conflicts of Interests and Conflicts of Loyalties

A charity trustee must:

- (1) declare the nature and extent of any interest, direct or indirect, which he or she has in a proposed transaction or arrangement with the charity or in any transaction or arrangement entered into by the charity which has not been previously declared; and
- (2) absent himself or herself from any discussions of the charity trustees in which it is possible that a conflict will arise between his or her duty to act solely in the interests of the charity and any personal or representative interest (including but not limited to any personal financial interest).

Any charity trustee absenting himself or herself from any discussions in accordance with this clause must not vote or be counted as part of the quorum in any decision of the charity trustees on the matter.

18. Errors and Informalities

- (1) Subject to sub-clause (2) of this clause, all decisions of the charity trustees, or of a committee of the charity trustees, shall be valid notwithstanding the participation in any vote of a charity trustee:
 - (a) who is disqualified from holding office;
 - (b) who had previously retired or who had been obliged by this deed to vacate office;
 - (c) who was not entitled to vote on the matter, whether by reason of a conflict of interest or otherwise

if, without the vote of that charity trustee and that charity trustee being counted in the quorum, the decision has been made by a majority of the

charity trustees at a quorate meeting.

- (2) Sub- clause (1) of this clause does not permit a charity trustee to keep any benefit that may be conferred upon him or her by a resolution of the charity trustees or of a committee of the charity trustees if, but for sub-clause (1), the resolution would have been void, or if the charity trustee has not complied with clause 17 (Conflicts of interests and conflicts of loyalties).

19. Minutes

The trustees must keep minutes, in books kept for the purpose or by such other means as the trustees decide, of the proceedings at their meetings. In the minutes, the trustees must record their decisions and, where appropriate, the reasons for those decisions. The trustees must approve the minutes in accordance with the procedures, laid down in regulations made under clause 22 of this deed.

20. General Power to make Regulations

- (1) The trustees may make rules and regulations for the administration and management of the charity, which must be consistent with the provisions of the existing trusts and this scheme. These may include:
 - (a) the calling of meetings
 - (b) methods of making decisions in order to deal with cases of urgency when a meeting is impractical
 - (c) the deposit of money at a bank
 - (d) the custody of documents
 - (e) the keeping and authenticating of records. (If regulations made under this clause permit records of the charity to be kept in electronic form and requires a trustee to sign the record, the regulations must specify a method of recording the signature that enables it to be properly authenticated).
- (2) The trustees must not make regulations which are inconsistent with anything in this deed.

21. Disputes

If a dispute arises between the trustees about the validity or propriety of anything done by the charity trustees under this deed, and the dispute cannot

be resolved by agreement, the trustees party to the dispute must first try in good faith to settle the dispute by mediation before resorting to litigation.

22. Accounts, Annual Report and Annual Return

The trustees must comply with their obligations under the Charities Act 2011 with regard to:

- (1) the keeping of accounting records for the charity;
- (2) the preparation of annual statements of account for the charity;
- (3) the auditing or independent examination of the statements of account of the charity
- (4) the transmission of the statements of account of the charity to the Commission;
- (5) the preparation of an Annual Report and its transmission to the Commission;
- (6) the preparation of an Annual Return and its transmission to the Commission.

24. Bank Account

Any bank or building society account in which any of the funds of the charity are deposited must be operated by the trustees and held in the name of the charity. Unless the regulations of the trustees make other provision, all cheques and orders for the payment of money from such an account shall be signed by at least two trustees.

25. Benefits and Payments to Charity Trustees and Connected Persons

- (1) General provisions

No charity trustee or connected person may:

- (a) buy or receive any goods or services from the charity on terms preferential to those applicable to members of the public;
- (b) sell goods, services or any interest in land to the charity;
- (c) be employed by, or receive any remuneration from, the charity;
- (d) receive any other financial benefit from the charity;

unless the payment or benefit is permitted by sub-clause (2) of this clause or authorised by the court or the Charity Commission. In this clause, a 'financial benefit' means a benefit, direct or indirect, which is either money or has a monetary value.

(2) Scope and powers permitting trustees' or connected persons' charitable benefits

(a) A charity trustee is entitled to be reimbursed out of the funds of the charity or may pay out of such funds reasonable expenses properly incurred by him or her when acting on behalf of the charity.

(b) A charity trustee may benefit from trustee indemnity insurance cover purchased at the charity's expense in accordance with, and subject to the conditions in, section 189 of the Charities Act 2011.

(c) A charity trustee or connected person may receive a benefit from the charity or take part in its normal trading or fundraising activities in the same manner and on the same terms as a member of the public.

(d) A charity trustee or connected person may enter into a contract for the supply of services, or of goods that are supplied in connection with the provision of services, to the charity where that is permitted in accordance with, and subject to, the conditions in section 185 of the Charities Act 2011.

(3) In this clause:

(a) 'charity' shall include any company in which the charity:

(i) holds more than 50% of the shares; or

(ii) controls more than 50% of the voting rights attached to the shares; or

(iii) has the right to appoint one or more trustees to the board of the company.

(b) 'connected person' means:

(i) a child, parent, grandchild, grandparent, brother or sister of the trustee;

(ii) the spouse or civil partner of the trustee or of any person falling within sub-clause (a) above;

- (iii) a person carrying on business in partnership with the trustee or with any person falling within sub-clause (a) or (b) above;
- (iv) an institution which is controlled -
 - by the trustee or any connected person falling within sub-clause (a), (b) or (c) above; or
 - by two or more persons falling within sub-clause (d)(i), when taken together
- (v) a body corporate in which -
 - the charity trustee or any connected person falling within sub-clauses (a) to (c) has a substantial interest; or
 - two or more persons falling within sub-clause (e)(i) who, when taken together, have a substantial interest.

26. Repair and Insurance

The trustees **should consider what steps are necessary to** keep in repair and insure to their full value against fire and other usual risks all the buildings of the charity (except those buildings that are required to be kept in repair and insured by a tenant). They should also consider taking out suitable insurance in respect of public liability and employer's liability.

The Recreation Ground Trust, Bath	
Meeting:	Recreation Ground Trustees
Date:	18 July 2013
Title:	Conflicts of interest policy
Status:	An open public item
Appendices:	1. Proposed conflicts of interest policy

1. Purpose of report

- 1.1 To present a draft conflicts of interest policy to the trustees for consideration and adoption.

2. The requirements for a policy

- 2.1 Trustees have a legal duty to ensure that the decisions they make on behalf of their charities are objective and free from bias. Decision making must be solely in the best interests of the charity.

- 2.2 The Charity Commission's Scheme for the Recreation Ground emphasises this underlying legal requirement. Clause 11 of the Scheme states:

The trustees must:

- (1) exercise their own independent judgement solely in the best interests of the charity;
- (2) ensure that the charity is independent and exists to pursue its own purposes and not to carry out the policies or directions of the Council or of any other body;
- (3) at their first meeting (or as soon as possible thereafter), adopt a conflicts of interest policy (taking account of the guidance issued by the Commission) and adequately manage any conflicts of interest in accordance with that policy.

- 2.3 This report addresses sub-clause (3) above.

3. Charity Commission guidance

3.1 The Charity Commission is in the process of updating its guidance on conflicts of interest. New draft guidance is currently open for consultation and has been taken into account in preparing this report.

3.2 The guidance defines a conflict of interest as:

Any situation in which a trustee's personal interests or loyalties could influence or affect the trustee's decision making. A conflict of interests exists even where there is the possibility that a trustee's personal or wider interests could influence the trustee's decision making.

3.3 It identifies three common types of conflict of interest. These are:

- Where a trustee could obtain a direct financial benefit
- Where a trustee could obtain an indirect financial benefit (eg for a relative or friend)
- Where a trustee's loyalty to the charity conflicts with their loyalty to another organisation or person.

3.4 In order to fulfil their legal duty, trustees must eliminate conflicts of interest or manage them. The guidance points out that conflicts do not always have to be eliminated; they can usually be managed.

3.5 Managing conflicts involves;

- identifying conflicts of interest
- declaring the interest at an early stage and withdrawing from the quorum, discussion and voting, and
- recording the conflict.

3.6 Any specific requirements in the charity's governing document should be followed.

4. Proposed policy

4.1 The guidance identifies the model policy of the Institute of Chartered Secretaries and Administrators as an example which can be adapted as necessary.

4.2 Some minor modifications have been made to the model policy to suit the circumstances of the Recreation Ground. The resulting proposed policy is shown at appendix 1.

5. Financial implications

5.1 There are no financial implications arising from this report.

6. Advice sought

6.1 The Trust's legal advisor has reviewed this report and her comments upon it have been incorporated.

7. Recommendation

7.1 It is recommended that the proposed conflicts of interest policy is considered and adopted.

Background papers:

Managing conflicts of interest; a guide for trustees (draft guidance).
Charity Commission, June 2013.

Model conflict of interest policy.
Institute of Chartered Secretaries and Administrators, June 2007.

Contact	Tim Darsley, Recreation Ground Trust Project Advisor. Tel 01225 477221
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Appendix 1: Proposed Conflicts of Interest Policy

This policy applies to trustees and all staff.

Why we have a Policy

Trustees have a legal obligation to act in the best interests of the Recreation Ground, Bath, and in accordance with the charity's governing document, and to avoid situations where there may be a potential conflict of interest. Staff have similar obligations.

Conflicts of interests may arise where an individual's personal, family or business interests or loyalties conflict directly or indirectly with the interests of the charity. Such conflicts may create problems. They can;

- inhibit free discussion,
- result in decisions or actions that are not in the interests of the charity, and
- risk the impression that the charity has acted improperly.

The aim of this policy is to protect both the organisation and the individuals involved from impropriety or any appearance of impropriety.

How to identify a conflict of interest

A potential conflict arises when:

- (i) a trustee or a person connected to the trustee by a close family or business relationship stands to gain or lose as a result of a decision to be made by the trustee, for example; where the charity proposes to enter into an agreement for the supply of goods or services with the trustee or connected person;
- (ii) a trustee owes a duty of loyalty to another person or organisation (e.g. the Council or a local sports club) which has an interest in something in which the charity may have an interest, for example; where the charity is applying for financial assistance to a grant-making organisation and one of the charity trustees is connected either with the grant-maker or with another charity seeking assistance from it;
- (iii) a trustee has confidential information which because of an obligation to another body they cannot disclose to the other charity trustees;
- (iv) a trustee would like to disclose to another body or person to which/whom it owes a duty of loyalty, information which the trustee has obtained only through being a trustee of the charity and which it is not in the charity's interests to disclose.

Register of interests

Trustees and all staff must declare their interests, and any gifts or hospitality received in connection with their role in the charity. A declaration of interests form is provided for this purpose, listing the types of interest you should declare.

Your declaration of interests should be updated at least annually and also when any changes occur.

If you are not sure what to declare, or whether or when your declaration needs to be updated, please err on the side of caution. If you would like to discuss this issue, please contact the charity's relevant advisor for confidential guidance.

The register of interests shall also be used to record all gifts of a value over £10 received by trustees and staff.

The register of interests will be maintained by the administrator.

Managing conflicts of interest or loyalty

Conflicts of interest are inevitable but usually can be managed. The exclusion of the conflicted trustee from relevant decision making is the obvious solution.

Another possibility, if several trustees are conflicted, is for the trustees to agree to be bound by independent advice given solely for the benefit of the charity or to delegate the decision to a non-conflicted trustee or staff member with the instruction to take the decision in the charity's best interests.

In cases of doubt it may be necessary to seek legal advice or consult the Charity Commission which may authorise a particular transaction (eg a disposition of land to a connected person).

In the case of a serious and lasting conflict the only solution may be for the trustee to resign, but a former trustee is not allowed to take a benefit where they have resigned in order to obtain a pre-planned benefit.

Decision making

If you face a conflict of interest or loyalty, you should not be involved in any decisions that relate to that interest or loyalty. You should declare your interest at the earliest opportunity and withdraw from any subsequent discussion.

You may, however, participate in discussions about matters in which you have an interest which is shared by all users, or by the general public, or where your benefit is minimal. If you do not stand to benefit personally but are affected by a conflict of loyalty which you have declared, the trustees may also permit you to participate in the discussion or disclose confidential information.

In the event of the trustees having to decide upon a question in which a trustee or member of staff has an interest, all decisions will be made by vote, with a simple majority required. A quorum must be present for the discussion and decision. Interested trustees will not be counted when deciding whether the meeting is quorate. Interested trustees may not vote on matters affecting their own interests.

All decisions affected by a conflict of interest will be recorded by the administrator and reported in the minutes of the meeting. The report will record;

- the nature and extent of the conflict,
- an outline of the discussion, and
- the actions taken to manage the conflict.

Where a trustee benefits from the decision, this must be reported in the annual report and accounts in accordance with the current Charities SORP.

Where a trustee benefits from a decision, this must be recorded. The Charities SORP requires any payment or benefit in kind received by a trustee or connected person to be reported in the charity's annual report and accounts for the financial year in question, giving details of the amounts and individuals involved.

Independent external moderation will be used where conflicts cannot be resolved through the usual procedures.

Failure to declare a conflict of interest or loyalty

If you fail to declare an interest that is known to the administrator or the Chair of the trustees, the administrator or the Chair will declare that interest.

If another trustee or a member of staff knows of an interest which the conflicted person has failed to declare, and the conflict is not yet known to the Chair or the administrator, that trustee or member of staff should inform the Chair or the administrator or, failing them, the trustees at the earliest opportunity.

Managing Contracts

You must not be involved in managing or monitoring a contract in which you have an interest. Monitoring arrangements for such contracts will include provisions for an independent challenge of bills and invoices, and termination of the contract if the relationship is unsatisfactory.

Data Protection

The information provided under this policy will be processed in accordance with data protection principles as set out in the Data Protection Act 1998. Data will be processed only to ensure that trustees and staff act in the best interests of the charity. The information provided will not be used for any other purpose.

July 2013

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The Recreation Ground Trust, Bath	
Meeting:	Recreation Ground Trustees
Date:	18 July 2013
Title:	Advisors and support services
Status:	An open public item
Appendices:	1. Service level agreements associated with the Trust's 2012/13 budget.

1. Purpose of report

- 1.1 To report on the current arrangements for advisors and support services to the Trust so that trustees can consider future arrangements in the short and longer terms.

2. Current position

- 2.1 The High Court decided in 2002 that the Recreation Ground is a charitable Trust, of which Bath and North East Somerset Council was then the sole trustee. The Council delegated the management of the Trust to a Board of three councillors. The scheme provides instead for a body of individual trustees and also constitutes the Council as the Custodian Trustee of the Trust, with the duty to hold legal title to the assets.
- 2.2 A senior officer has been designated as the lead advisor to the Trust. This was previously Glenn Chipp and is currently Andrew Pate. Other officers have been designated as particular specialist advisors.
- 2.3 The management of the Recreation Ground requires a wide range of professional, technical and operational support services. The largest of these is for grounds maintenance. These services have been mostly provided by the departments of the Council according to service level agreements. Appendix 1 shows the support services provided and the basis of their charges in 2012/13.
- 2.4 The engagement with the Charity Commission to resolve the breaches of the charitable trusts has required specific assistance. In this context, Francesca Quint has provided specialist legal advice and Tim Darsley has been engaged as Project Advisor since August 2012.

3. Future arrangements

- 3.1 It is now for the new trustee body to decide how it wishes to secure the advice and support services that it needs to manage the Recreation Ground.
- 3.2 The way that it does this could range from wholly external commercial procurement to the re-negotiation of service provision from the Council, or a mixture of the two. A small number of professional services (such as audit, tax, insurance, and specialist legal and property services) will need to be externally provided. The objective would be to achieve the most cost effective arrangements that will best serve the interests of the Trust.

4. A staged approach

- 4.1 A review of the Trust's requirements, followed by procurement in some form, will take some time to undertake. In the meantime, the Trust must continue to operate effectively and plan for its future. At the same time, the requirements of the Scheme, such as co-opting further trustees, agreeing the maintenance responsibilities of the Leisure Centre and resolving the issues arising from the lease to Bath Rugby, have to be addressed. There will also be a continuation of some strategic work, such as dealing with any appeal against the Scheme.
- 4.2 To enable the trustees to undertake a proper review of their requirements and to implement the outcome, it is suggested that the current arrangements for advisors and support services be continued for an interim period.
- 4.3 During this time, the existing advisors would work to and as directed by the trustees. Operational activity would continue within the context of the Trust's existing budget and commitments, unless otherwise directed.
- 4.4 If such an approach is acceptable, the trustees will need to establish a process for reviewing and securing their advisory and support service requirements, and set an accompanying timescale for the interim period.

5. Advice sought

- 5.1 The Trust's legal advisor has reviewed this report and her comments upon it have been incorporated.

6. Recommendation

6.1 It is recommended that:

- (i) The existing arrangements for advisors and support services be confirmed and continued for an interim period.
- (ii) A review of the advisory and support services required by the Trust be undertaken and proposals be prepared for the most cost effective way of securing those requirements.

Contact:	Tim Darsley, Recreation Ground Trust Project Advisor. Tel 01225 477221
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Appendix 1:

Recreation Ground Trust Service Level Agreements – 10th May 2005

SLA's totalling £106,717 based on 2012/13 Budgets as detailed below.

<u>Area of Work</u>	<u>Charge Base</u>	<u>Amount</u>
<u>1. Property Services SLA</u>		<u>£14,602</u>
<u>1.1 Management of Leases Properties – 2012/13 SLA Budget</u>		
Approval of tenants works.	Hourly Rate	
Assignments/sub letting.	Hourly Rate	
Breaches of covenant.	Hourly Rate	
Building Insurance.	Hourly Rate	
Change of use.	Hourly Rate	
Dilapidations.	Hourly Rate	
Minor lease variations.	Hourly Rate	
<u>1.2 Rent Reviews and Lease Renewals – 2012/13 Budget within £14,602</u>		
Lease renewal negotiations.	Fixed Fee	
Rent review negotiations.	Fixed Fee	
Surrender and regrants.	Hourly Rate	
Lease terminations.	Fixed Fee	
Reference to third parties.	Hourly Rate	
Property inspections.	Hourly Rate	
Rent accounting.	Hourly Rate	
Rent arrears.	Hourly Rate	
General property advice to clients.	Hourly Rate	
Insurance claims.	Hourly Rate	
Grants of minor rights (wayleaves/easements).	Fixed Fee	
Encroachments.	Hourly Rate	
General property management.	Hourly Rate	
Boundary/ownership disputes.	Hourly Rate	
<u>2. Repairs and Maintenance SLA</u>		<u>£13,789</u>
Programmed maintenance.	Cost plus 11% management charge	
Reactive maintenance.	Cost plus 11% management charge	

3. Legal Services SLA		£5,000
Property law.	Hourly Rate	
Preparation, negotiation and enforcement of charity's rights under leases, tenancy agreements, licences, deeds of easement, and any other form of agreement relating to land.	Hourly Rate	
Provide and procure, by arrangement with the trust, provision of advice relating to powers and duties of the trustee under charity law.	Hourly Rate	
4. Financial Services SLA		£3,450
Budget estimation/monitoring.	Hourly Rate	
Final accounts.	Hourly Rate	
Accounts audit.	Hourly Rate	
5. Grounds Maintenance SLA		£53,076
Provide labour, plant and materials for grounds maintenance services to the Recreation Ground.	Fixed Fee	
Works cover the rugby pitch, 4 croquet lawns, 5 lawn tennis courts.	Fixed Fee	
Works include grass cutting, lacrosse pitches and incidental areas around the perimeter of the site.	Fixed Fee	
6. Leisure and Amenity Staff SLA		£13,000
Grounds management.	Hourly Rate	
Event organization.	Hourly Rate	
Collect income for casual users.	Actual Income	
Payment of rates and utility bills.	Actual Cost	
Car Park use enforcement.	Fixed Fee	
General overheads and administration.	Hourly Rate	
7. Administration		£3,800
Committee reports.	Hourly Rate	
Trust Board/press enquiries.	Hourly Rate	
Appointment of consultants.	Hourly Rate	
General enquiries.	Hourly Rate	
Cost centre management.	Hourly Rate	
Records.	Hourly Rate	
Complaints.	Hourly Rate	
Processing payment/invoices.	Hourly Rate	
Communications with clients and other parties.	Hourly Rate	
Filing.	Hourly Rate	
General Committee support.	Fixed Fee per meeting	
SLA Total		£106,717

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The Recreation Ground Trust, Bath	
Meeting:	Recreation Ground Trustees
Date:	18 July 2013
Title:	Co-opted trustees
Status:	An open public item
Appendices:	1. Declaration of eligibility for newly appointed trustees (CSD-1382)

1. Purpose of report

- 1.1 To set out the requirements for appointing co-opted trustees and to outline a process for their recruitment.

2. The requirements for co-opted trustees

- 2.1 The Scheme for the Recreation Ground specifies that, when complete, the trustee body will comprise;

- two trustees nominated by Bath and North East Somerset Council
- one trustee nominated by Fields in Trust
- one trustee nominated by Somerset County Playing Fields Association, and
- not less than three co-opted trustees.

- 2.2 Regarding co-opted trustees, the Scheme requires that:

- (1) When appointing co-opted trustees, the trustees must:
- (a) identify the skills or knowledge among its trustees the charity needs; and
 - (b) consider the extent to which appointees demonstrate the relevant skills or knowledge; and
 - (c) not appoint members of the Council.
- (2) Out of the co-opted trustees, the trustees must appoint at least one who is able to represent those groups of beneficiaries that use the recreation ground, not including Bath Rugby Club.

- (3) In appointing co-opted trustees, the trustees must take account of the fact that it would be normally be helpful to advertise in the local and/or specialist press or use a trustee brokerage service. All candidates must be asked to consider and declare any existing or potential conflicts of interest before appointment.
- (4) The appointment of a co-opted trustee must be made by the trustees at a meeting of which not less than 21 days' notice has been given.
- (5) An appointment may, but need not, be made before the date on which the term of office of an existing co-opted trustee comes to an end, to take effect on that date. In these circumstances:
 - (a) the appointment may not be made more than 3 months before the date on which the existing co-opted trustee's term of office is due to end; and
 - (b) any co-opted trustee whose term of office is about to come to an end must not vote in favour of their own re-appointment.

2.3 Other requirements contained in the governing document concern record keeping and the provision of information to new trustees.

3. The role of trustees

- 3.1 The role of co-opted trustees is no different from that of the first trustees. It is to direct the affairs of the charity so that it delivers the relevant outcomes for its beneficiaries.
- 3.2 Trustees must act solely in the best interests of the charity and must avoid acting if they may be affected by any personal conflicts of interest or loyalty. It is for this reason that representatives of individual sports clubs and special interest groups, including local residents' associations, are unlikely to be suitable as co-opted trustees.

4. Additional skills and knowledge needed by the Trust

- 4.1 The first trustees will need to review the skills, knowledge and experience that they can contribute themselves and identify what additional skills would be desirable for the Trust. The diversity of the eventual trustee body should also be considered.
- 4.2 Particular consideration will be needed for a trustee who has the ability to represent those who use the Recreation Ground.
- 4.3 The outcome of this assessment should be job descriptions and person specifications for the trustees to be appointed.

- 4.4 In future, all the trustees, including existing co-opted trustees, will have the same obligations when considering the appointment of new co-opted trustees.

5. Responsibilities

- 5.1 The first trustees will be responsible for the recruitment process and must ensure that it operates in the best interests of the Trust. They will need to oversee its management and will act directly in the interviewing and appointment stages. After that, all the trustees whether nominated or co-opted will have those responsibilities in relation to the recruitment of new co-opted trustees.

6. Finding potential trustees

- 6.1 A range of methods can be used to recruit new trustees. Charity Commission guidance is that those used should be widely cast, open and inclusive. Advertising and brokerage services are recommended as meeting those aims. The Scheme also requires that these methods are considered.
- 6.2 Advertising could be in the local press and in other suitable media such as the charity's website, other websites, local publications and the charity press.
- 6.3 Trustee brokerage services match potential trustees with vacancies. A number of organisations offer such services or maintain registers of potential trustees.

7. Appointment

- 7.1 Once the new trustees have been chosen but prior to the appointment, the trustees must make sure that they acting within the law, in accordance with the governing document and that the candidate is not disqualified from being a trustee. A declaration to this effect should be obtained in the form set out in appendix 1.
- 7.2 Prospective trustees should also be asked about potential conflicts of interest and loyalties. These should be declared to the trustees before they make an appointment.
- 7.3 The new trustees will be elected by the existing trustees. The appointment will become effective only when the prospective trustees have formally agreed to accept the trusteeships.
- 7.4 Following the appointments, various notifications, including to the Charity Commission, are required.
- 7.5 A comprehensive induction process should be provided for the new trustees.

8. Advice sought

8.1 The Trust's legal advisor has reviewed this report and her comments upon it have been incorporated.

9. Recommendation

9.1 It is recommended that:

The trustees commence a recruitment process for co-opted trustees in accordance with Charity Commission guidance, as outlined in the report.

Contact:	Tim Darsley, Recreation Ground Trust Project Advisor. Tel 01225 477221
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Background papers:

Finding new trustees – What charities need to know. Charity Commission guidance CC30, September 2012

Trustee Recruitment. Charity Commission guidance RS1



Declaration

of eligibility for newly appointed trustees

CSD-1382

Section 1		Personal Details	
Name	<input type="text"/>		
Address	<input type="text"/>		
	<input type="text"/>		
	<input type="text"/>		
			Postcode
Daytime telephone number	<input type="text"/>	Evening telephone number	<input type="text"/>
Section 2		Charity Details	
Name of charity	<input type="text"/>		
Charity registration number	<input type="text"/>		
Section 3		Charity Details	
<p>I declare that I am not disqualified from acting as a charity trustee and that:</p> <ul style="list-style-type: none"> • I am aged 18 years or over at the date of this election or appointment (only relevant for unincorporated charities); • I am capable of managing and administering my own affairs; • I do not have an unspent conviction relating to any offence involving deception or dishonesty; • I am not an undischarged bankrupt nor have I made a composition or arrangement with, or granted a trust deed for, my creditors (<i>ignore if discharged from such an arrangement</i>); • I am not subject to a disqualification order under the Company Directors Disqualification Act 1986 or to an Order made under section 429(b) of the Insolvency Act 1986; • I have not been removed from the office of charity trustee or trustee for a charity by an Order made by the Charity Commissioners or the High Court on the grounds of any misconduct or mismanagement nor am I subject to an Order under section 7 of the Law Reform (Miscellaneous Provisions) (Scotland) Act 1990, preventing me from being concerned in the management or control of any relevant organisation or body. <p>For charities that work with children:</p> <ul style="list-style-type: none"> • I am not subject to a disqualification Order under the Criminal Justice and Court Services Act 2000. <p>For charities that work with vulnerable adults:</p> <ul style="list-style-type: none"> • I am not disqualified under the Protection of Vulnerable Adults List. 			
Signed	<input type="text"/>	Date	<input type="text"/>

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The Recreation Ground Trust, Bath	
Meeting:	Recreation Ground Trustees
Date:	18 July 2013
Title:	Lease for temporary east stand for 2013/14
Status:	An open public item
Appendices:	Heads of terms to be available at the meeting

1. Purpose of report

- 1.1 To set out proposed heads of terms for the lease for the temporary east stand for the 2013/14 season, for consideration and approval.

2. The annual lease for a temporary stand

- 2.1 In previous years, the Trust has applied to the Charity Commission for an order to permit the granting of a lease for a temporary east stand on land extending outside of Bath Rugby's existing lease. The application has been made in the early summer so that an order can be made and an annual lease granted in time for the temporary east stand to be erected before the start of the coming rugby season.
- 2.2 The Scheme has now granted the Trust the power to grant a new lease of the current Bath Rugby site which includes provision for a lease for a temporary stand on the additional land specified in Part 4 of the Schedule to the Scheme.
- 2.3 Any such lease must be excluded from the Landlord and Tenant Act 1954 and can only permit use for a temporary stand, playing pitch or access areas. It must also require that the area concerned be available for the purposes of the charity (i.e. for public recreation) for at least three months in each year.

3. Quorum necessary to grant a lease

- 3.1 The Scheme requires that before any decision can be taken to exercise the new power to grant a lease, at least five trustees must be present at the meeting.

- 3.2 However, the Scheme only appoints three of the first trustees. Although the fourth trustee can now be appointed, the fifth trustee can only be appointed when the first trustees appoint at least three co-opted trustees, as they are required to do by the scheme. Before making those appointments, the first trustees will need to agree a process and then undertake a recruitment exercise. The appointment of co-opted trustees must be made at a meeting of which not less than 21 days' notice has been given.
- 3.3 These requirements mean that it will not be possible for the trust to grant a temporary lease under the powers of the Scheme within the timescale needed to erect the temporary stand. It is proposed, therefore to apply to the Charity Commission for an order under section 105 of the Charities Act to allow the Trust to grant a temporary lease along the lines of previous years.

4. The interests of the charity

- 4.1 Granting a lease for a temporary stand is in the interests of the charity for two main reasons.
- 4.2 Firstly, a temporary east stand is an integral part of the Trust's proposals for resolving the issues arising from the 1995 lease to Bath Rugby. These proposals were consulted upon in 2011 and publicised again in 2012, attracting overwhelming public support on both occasions.
- 4.3 The power to grant a lease for a temporary east stand is also a key part of the Charity Commission's Scheme, made for the purpose of resolving the breaches of the charitable trusts. But for the technical issue of the quorum, the Trust would be able to grant the lease under the powers granted by the Scheme.
- 4.4 Secondly, the rent from the temporary stand represents by far the Trust's largest source of income. Without this, the Trust would be barely viable and in a very poor position to deliver its charitable objectives.

5. Proposed terms for the 13/14 lease

- 5.1 It is proposed that the new lease will be on the same area of land and have the same terms as the lease for the 12/13 season, with the following amendments:
- The term will be 14 August 2013 to 13 May 2014 (39 weeks).
 - The rent will be £117,560 (16 match fee plus stand fee) plus £7,942 for additional matches. This represents an increase of 16.3% on the rent for 12/13.
 - Additional requirements are included for the reinstatement by the Club of the outfield land affected by the routes of the fire exits from the stand.
- 5.2 Full heads of terms for the lease will be available at the trustees' meeting.

6 Advice sought

- 6.1 Advice on the terms for the proposed lease has been obtained from Deloitte LLP and their valuation assessment will be available at the trustees' meeting. It is necessary for the Trustees to be able to assure themselves and the Commission that the terms are in the Trust's best interests and in particular that the rent and other terms are best reasonably obtainable for the Trust.
- 6.2 The Trust's legal advisor has reviewed this report and her comments upon it have been incorporated.

7 Recommendation

- 7.1 It is recommended that:
- (i) The Trustees agree that, in the light of the professional advice received, the proposed terms are the best reasonably obtainable for the Trust, and approve the terms.
 - (ii) Application be made to the Charity Commission for the relevant order to allow the Trust to grant a lease for a temporary east stand for 2013/14.
 - (iii) The lease be granted in time for the erection of the temporary stand before the start of the 2013/14 season.

Contact	Tim Darsley, Recreation Ground Trust Project Advisor. Tel 01225 477221
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