



Managing Charitable Playing Fields

This information sheet deals with the specific issues relating to the management of playing fields and recreation grounds, which are held on charitable trusts: either by an independent charity or by a Parish Council acting as sole trustee or joint trustee. (See note below)

What it means to be a charity

Charities should register with the Charity Commission if their annual income is £5,000 or above. Any charities with an income below that can register with HMRC. Both options then enable your charity to benefit from tax advantages.

However, there are also limitations that come from being a charity, which, in a sense, places obligations on the charity in return for receiving these benefits. It is very important to be aware of your charitable objectives, (which may be spelled out in your governing document) to ensure that you are always working within this framework.

For comprehensive guidance on the roles and responsibilities of charity trustees and other matters of general charity management, visit the Charity Commission website:

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

Note

Managing charity trustees have the responsibility for the general control and management of the administration of the charity. They must ensure that they always act for the good of the charity and its beneficiaries, and in doing so that they comply with the terms of the governing document and any legislation. A Parish Council can take several different roles in the management of charity land. They can be either:

Sole Trustee – The council both holds the title to the property and has responsibility for all aspects of the management of it. They act as the managing charity Trustees

Joint Trustees – where the Parish Council and individual trustees manage the playing field together. They act jointly as the managing charity Trustees.

Both sole and joint trusteeships have the same issues for a Parish Council to be aware of.

Custodian trustee – the Parish Council holds the title to the property, and it is listed in its assets register but with nil value. This arrangement is a technicality, and the Council has none of the usual rights and responsibilities that a freeholder/leaseholder would normally have. A separate body of managing charity trustees are responsible for all aspects of management of the property, including insurance. The custodian trustee has no power to manage the property, to take decisions on its use, or to be involved in the administration of the property.

What it means to be responsible for a playing field/recreation ground charity

When a playing field or recreation ground is held on charitable trusts, it is there to provide outdoor open recreation space for the benefit of local inhabitants and should be managed in a way that makes it available for reasonable public access. It can only be used in a way that is compatible with these charitable purposes and must be appropriately managed and protected.

What sorts of arrangements allowing organisations to use a charity playing field/recreation ground are acceptable?

The advice below is taken from the Charity Commission's guidance on their website:

It is quite common for sports clubs to ask recreation ground charities for permission to use part of the ground on a regular or permanent basis. In such a case you must be satisfied that this will not interfere with the charity's object of providing a recreation ground for the local inhabitants. If such use will prevent reasonable public access to all or part of the ground then it is likely that the arrangement will not be in the best interests of the charity, that is, it will hinder the furtherance of the purposes of the charity.

Examples:

If a local football club wishes to use as of right the ground one afternoon a week during the winter season for matches, the club may come to an arrangement allowing the club to prepare suitable holes for posts to be slotted in on match days and have reasonable time available to mark out a pitch. If this does not interfere with public access for the rest of the time then this may be acceptable if you, as trustees of the recreation ground, ensure that the club's usage is subject to a formal agreement (such as a license or hire agreement) and that the club pays the going rate for its usage. A model agreement is available from OPFA.

The trustees of the recreation ground will need to take care that the arrangement does not become extended resulting in the football club taking over the ground for more and more of the time so that the public is increasingly excluded from enjoying the facility.

The trustees may decide that the recreation ground is large enough so that, even if you were to allow the football club permanent use of part of it, there would still be sufficient space for the public to use. The part to be occupied by the club would be surplus to the requirements of the charity. In such a situation, you may well need a formal document, perhaps taking professional advice on the terms of the use by the club. Charity Commission advice on selling and leasing charity land will apply and should be accessed on their website.

What about if a sports club requires security of tenure in order to apply for grants?

A sports club may require security of tenure for at least 25 years for grants purposes. If this is the case, you are still unable to lease the land to them. If you have a pavilion or clubhouse, the option available would be to lease the building to the club to give them evidence of security of tenure; however, it must be written into the lease that the building must remain accessible to the public.

What if the whole playing field is only used by one club and no other group or individuals wants to use it?

In this case, the charity would not be achieving its objectives by continuing to retain and manage the playing field. The ground should be sold or let as a whole, so that the proceeds could be used to further the charity's aims in some other way, such as obtaining other land to set up a recreation ground in a new location. In this situation, you would need to consult with the Charity Commission, and Oxfordshire Association of Local Councils (OALC)

Can sports clubs that use charity playing field land charge spectators an entry fee?

No. Sports clubs who need to charge spectators an entry fee cannot be based on charitable playing fields.

Can a bar be run on charitable land?

The sale of alcohol is a non-charitable activity. A charity may only run a bar in association with its charitable activities such as at football matches, or occasional fundraising events. It is not possible for a charity to run a regular bar. The Charity Commission have advice about charities and the sale of alcohol on their website in their information sheet: [Alcohol at Charity Meetings and Events](https://www.gov.uk/guidance/alcohol-at-charity-meetings-and-events) – see link below.

<https://www.gov.uk/guidance/alcohol-at-charity-meetings-and-events>

If a regular bar facility is felt important on a charity playing field, this must be run by a separate noncharitable organisation, with the profits being covenanted back to the charity. Further advice should be sought from OPFA, if this is proposed.

Can we put built facilities, such as a pavilion or cycle track, on charitable fields?

When considering any proposals which would entail giving over all or part of a playing field or recreation ground to a single interest or 'specialist' activities, you must be satisfied that implementation of the proposals would not interfere with the charity's object of providing a playing field or recreation ground for the local inhabitants generally if that is the object of the charity. If the result would prevent use by the public generally in accordance with the object of the charity on a permanent basis, then it may be that the proposals are not in the best interests of the charity.

You must also consider whether the development of the property would fall within the objects of the charity by checking the charity's governing document and any other deeds relating to the land to see if there is any restriction on the use of the property.

For example, sometimes trustees are prohibited from erecting any buildings on the land or from using it for any purpose other than as an open space.

If you can put up a building on the land, you will then need to consider who is allowed access to the building. If the building is to be a pavilion for the sole use of a sports club using the ground and no members of the public are to be allowed to use the facility, then that may be too restrictive and not fulfil the trusts of the charity. On the other hand, the pavilion or club house might be available for use by anyone using the ground in accordance with the object(s) of the charity.

If there were ever a question of putting other kinds of building on part of a charity field, such as housing, advice must be obtained from the Charity Commission, and this could only be done if the land could be shown to be surplus to the charity's and its beneficiaries' requirements.

Disposal of charity land and buildings

If it is proposed to sell or lease all or part of a charity playing field, advice should be obtained from the Charity Commission. See their website for general guidance: Recreation ground charities: disposal of land and buildings—see link below:

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/352530/Disposal_of_land_and_buildings.pdf

Parish councils who manage a charitable field as sole/joint charity trustee

The important thing for a Parish Council to remember when acting as sole or joint trustee of a charity is that they are 'wearing two hats': that of charity trustee and that of parish council. Charity business must be kept separate from parish council business and you will need to be clear that charity property is not dealt with as if it were parish council (local authority) property. You must have two separate bank accounts and hold separate meetings (even if they are held back-to-back on the same evening).

If the parish council (as local authority) wishes to support the playing field charity financially, it can give a grant to the charity. Some parish councils give the playing field an annual grant for the maintenance and insurance of the field. Local councils are empowered to contribute by grant or loan towards the expenses incurred by any voluntary organisation in providing recreational facilities in their parish. Voluntary organisations are defined as 'not-for-profit' undertakings and therefore include charitable trusts.

For further advice, contact OALC.

Useful contacts:

Oxfordshire Association of Local Councils: email info@oalc.org.uk

Charity Commission: online via the contact page on their website
www.gov.uk/government/organisations/charity-commission

Whilst every care has been taken in the production of this Information Sheet, the OPFA, cannot be held responsible for any inaccuracies that might occur, or be held liable for any advice given.

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