

**SLOUGH BOROUGH COUNCIL
THE COUNCIL ACTING AS CORPORATE TRUSTEE
TERMS OF REFERENCE FOR THE COMMITTEE**

Key Provision	Proposed Terms of Reference
Role	<p>The Council will continue to act as the corporate trustee in relation to the relevant charities.</p> <p>However, rather than requiring all decisions to be reached by full Council, the Council will appoint the committee to discharge its responsibilities as corporate trustee.</p>
Current Charities	<p>The Council acts as corporate trustee in relation to the following three charities:</p> <ul style="list-style-type: none"> • The War Memorial Garden at Slough – Charity No. 1010350 • The Salt Hill Playing Fields – Charity No. 215385 • Langley War Memorial Fields – Charity No. 1055955 • Chalvey Millenium Green Trust – Charity No. 1073976 <p>A brief summary of these charities is set out at Appendix 1.</p> <p>There may be other charities in the future.</p>
Terms of Reference	<p>The terms of reference for the committee are:</p> <ul style="list-style-type: none"> • To act on behalf of the Council in relation to the land and assets held by the Council as corporate trustee • To maintain a register of such property and assets and ensure that this is up to date at all times • To ensure that any corresponding details held by the Charity Commission and/or Land Registry are, also, up to date • To discharge the duties of the Council in its capacity as the corporate trustee • The six main duties of a charity trustee are

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	<p>summarised below:</p> <ul style="list-style-type: none"> • Ensure each charity is carrying out its purposes for public benefit • Ensure strict compliance with each charity is the governing document • Act in the best interests of each relevant charity • Manage each charity's resources responsibly • Act with reasonable care and skill • Ensure each charity is accountable and, specifically, comply with statutory accounting and reporting requirements • To ensure clear accountability for all income derived by each charity and ensuring robust mechanisms are in place to ensure that all charity income is only used for the particular charity's objects • To ensure accountability and, specifically, to ensure adherence to statutory filing and accounting requirements • To file the annual returns on behalf of the Council with the Charity Commission • To establish effective risk management procedures, having regard to the range of risks associated with each charity and having particular regard to reputational risk • To effectively manage conflicts of interest and conflicts of loyalty and have robust procedures for both • To continuously review the land and assets held by the Council as corporate trustee, to ensure that each charity is up to date and fit for purpose and continues to meet the public benefit tests • To specifically consider whether the constitution or governing document for each charity requires updating and/or if there are more appropriate or efficient means of using the charity's assets and/or achieving the charity's objects, including

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	<p>for example, collaboration with other charities and/or merger</p> <ul style="list-style-type: none"> • To ensure that in all correspondence with third parties it is made explicitly clear when the Council is acting in the capacity as corporate trustee as opposed to a local authority dealing with its own corporate assets • To ensure that the Council otherwise complies with best practice regarding local authorities acting as corporate trustees, as set out in the joint publication between the Charity Commission and the Local Government Association dated May 2013 (a summary of which is set out at Appendix 2)
<p>Duties of Charity Trustees</p>	<p>Charity Commission Guidance CC3 – Charity Trustee: What is Involved – sets out in more detail the six main duties of trustees.</p> <p>For ease of reference, a link to the publication is set out at Appendix 3.</p> <p>In summary, when making decisions on behalf of the Council as corporate trustee, committee members must:</p> <ul style="list-style-type: none"> • Act within the powers of the governing document • Act in good faith and only in the interests of the charity • Ensure committee members are fully informed, taking any advice needed • Take into account all relevant factors • Disregard any irrelevant factors • Effectively manage conflicts of interest and conflicts of loyalty • Make decisions which are reasonable in the circumstances
<p>Membership</p>	<p>The committee will comprise of 7 elected members nominated by the Council.</p> <p>Members should be selected and appointed having regard to particular skills and expertise, including:</p>

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	<ul style="list-style-type: none"> • Property • Finance • Charity law • Compliance • Sector specific knowledge and expertise, e.g. education, health, recreation
Duties and Responsibilities	<p>The Council is, itself, the corporate trustee.</p> <p>The committee members are not trustees in their own capacity.</p> <p>Committee members are, however, responsible for discharging the Council's duties and responsibilities as corporate trustee.</p> <p>It is good practice, therefore, for the individual members to comply in full with duties and responsibilities of Charity Trustees.</p> <p>Committee members should have particular regard to the duties and responsibilities of trustees in relation to the treatment of charity assets and, in particular, the disposal of charity land.</p> <p>A summary of the restrictions in relation to the disposal of charity land is attached to these terms of reference (Appendix 4).</p>
Induction and Training	<p>All committee members will be given a full induction and briefing on their duties and responsibilities as charity trustees.</p> <p>The induction should include the provision of an induction manual which should contain the following details:</p> <ul style="list-style-type: none"> • A copy of the constitution / scheme / deed for each of the charities • Briefing note on duties and responsibilities of charity trustees • Specific guidance in relation to the disposal of charity assets • Guidance in relation to managing conflicts of interest and a conflicts of interest policy

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	<ul style="list-style-type: none"> • Guidance in relation to compliance issues and, in particular, the filing of the annual report and accounts and annual return • Charity Commission guidance in relation to good governance
Meetings	<p>The committee will meet as regularly as required to fulfil its terms of reference and not less than two times per annum.</p> <p>Meetings will be held at a time of day to suit the members of the committee.</p> <p>The committee meetings must, however, be wholly distinct from Council meetings and should not, therefore, form part of a Council meeting.</p> <p>The Committee must make independent, impartial decisions in the best interest of the charities.</p> <p>However, it must, also, make informed decisions.</p> <p>To achieve both these requirements, it is recommended that the Committee consider holding its meetings in two parts:</p> <ul style="list-style-type: none"> • Part 1 – Open • Part 2 – Closed <p>Key stakeholders, including ward members, could be invited by the Committee members to attend and speak at the Part 1 meeting.</p> <p>Key stakeholders would not be allowed to attend the Part 2 meeting.</p> <p>This will enable key stakeholders, including ward members, to attend the Part 1 meeting and share their views and/or concerns relating to a particular charity.</p> <p>This will also, however, enable the Committee members in the Part 2 meeting to discuss the business of the charities in confidence and, therefore, without in any way inhibiting their discussions.</p> <p>This will enable Committee members to make independent but informed decisions in the best interest of the charities.</p> <p>For the avoidance of doubt, it is not recommended that key stakeholders be entitled to attend but not speak</p>

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	<p>during the Part 2 meeting as “observers”.</p> <p>This is expressly referred to in Charity Commission Guidance RR7 as a characteristic of a charity which is not independent.</p>
Chair	<p>The Council will appoint a Chair who will be reappointed on an annual basis.</p>
Quorum	<p>The quorum will be fixed at 3.</p>
Minutes	<p>The committee will prepare minutes.</p> <p>These will make it expressly clear that these are minutes of the committee meeting to discharge the Council’s duties and responsibilities as corporate trustee.</p> <p>These are not minutes of the Council.</p> <p>These minutes are not, therefore, available for public inspection.</p> <p>The Committee may wish to consider notifying key stakeholders, including ward members of key agenda items for forthcoming Committee meetings and to invite key stakeholders / ward members to attend and speak at the Part 1 meetings, if there are issues of interest.</p> <p>The Committee may, also, wish to consider circulating the minutes of Part 1 meetings.</p> <p>It is not recommended that the minutes of the Part 2 meetings and, in particular, the confidential discussions between the Committee members be made available in the public domain.</p> <p>The Committee may, however, wish to release a summary of key decisions / actions in relation to the various charities, as well as information relating to the activities of each of the charities and, in particular, their contribution to the health and wellbeing of the local area.</p> <p>The report and accounts that are filed at the Charity Commission will, in any event, be in the public domain.</p>
Attendance at Meetings	<p>Only members of the committee are entitled to attend committee meetings.</p> <p>As stated above, the meetings are not public meetings and members of the public will not be entitled to attend.</p> <p>The committee may, however, invite key stakeholders to</p>

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	<p>attend to participate in discussions with regards to particular agenda items.</p> <p>This will, however, be entirely at the discretion of the committee.</p> <p>To manage this effectively, it is suggested that the Committee holds its meetings in two parts, as detailed above.</p>
Administrative Support	<p>The Council may provide administrative support to the committee.</p> <p>The Council may wish to waive the cost of any such administrative support.</p>
Legal and Other Professional Support	<p>The committee is likely to require legal and other professional support services, particularly in relation to the disposal of any land.</p> <p>Such advice and support can be provided by Council officers.</p> <p>Great care must, however, be taken to ensure that any potential conflicts of interest are effectively managed.</p> <p>It would be preferable if the legal team advising the committee was distinct from the legal team advising the Council generally in relation to corporate matters, where there is a potential conflict of interest.</p>
Audit and Annual Return	<p>The finances of the charity must be kept separate from those of the Council.</p> <p>Charitable assets must be accounted for separately and the income and expenditure ring fenced for the specified charitable purposes.</p> <p>The committee will be responsible for complying with Charity Commission requirements for audit and annual return.</p> <p>The committee must, therefore, produce annual statements of account under charity law.</p> <p>The financial size of the charity will determine the nature of the accounts</p> <p>The accounts will be filed at the Charity Commission and subject to, both, Charity Commission and stakeholder scrutiny.</p>

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	The committee will, also, be responsible for preparing and filing the annual return at the Charity Commission.
Remuneration	The committee members will not be entitled to be paid for their services unless there is clear authority in the governing document or express approval from the Charity Commission (or Courts).
Correspondence	<p>It would be extremely helpful to create separate letter headed notepaper for correspondence dealing with the charity assets.</p> <p>Such letter headed notepaper should clearly state the charity name and registration number and be signed "Slough Borough Council, Corporate trustee of [] Charity".</p>

**APPENDIX 1
CHARITY DETAILS**

The Salt Hill Playing Fields	
Charity number	215385
Registered	20 March 1963
Trust Document	Deed of Trust dated 13 August 1906 (Conveyance)
Objects	For the purpose of encouraging and giving facilities for outdoor games and physical and athletic exercises calculated to promote the physical health of the young people of the district and not for the purpose of providing a promenade or mere pleasure ground or public resort only.

War Memorial Garden at Slough	
Charity number	1010350
Registered	8 April 1992
Trust Document	Scheme
Objects	To improve the conditions of life for the inhabitants of Slough in the interests of social welfare of facilities for recreation and other leisure time occupation.

Langley War Memorial Fund	
Charity number	1055955
Registered	7 June 1996
Trust Document	Indenture dated 23 April 1920
Objects	For a recreation ground and playing field for the inhabitants of the parish of Langley and other members of the public.

Chalvey Millennium Green Trust

Charity number	1073976
Registered	16 February 1999
Trust Document	Declaration of Trust dated 24 December 1998
Objects	The Trustees shall hold the trust fund and its income upon trust to apply them to the provision of the property (which is shown and edged red on plan no.1) and shall accordingly hold any property to provide and maintain an open space to be known as "Chalvey Millennium Green" for the benefit of the inhabitants and to be used forever as an area for informal recreation play or other leisure-time occupants a meeting area or place for community events and for any other lawful purpose consistent with these trusts and for the general benefit of the community.

APPENDIX 2
**TEN KEY RECOMMENDATIONS SET OUT IN THE JOINT PUBLICATION ISSUED BY THE
CHARITY COMMISSION AND LOCAL GOVERNMENT ASSOCIATION MAY 2013**

Set out below are the ten key recommendations set out in a Joint Publication issued by the Charity Commission and Local Government Association dated May 2013 (“**Local Authorities as Charity Trustees**”), to provide guidance to local authorities in managing their role as corporate trustees:

- Ensure that any charitable assets, for which the local authority is the corporate trustee, are clearly identified.
- Make sure the local authority is clear about the objects of the charity set out in its governing document as these dictate how any such asset may be used, in accordance with charity law.
- Make sure that any charitable assets, for which the local authority is the corporate trustee, are managed independently in accordance with their charitable purpose and any restrictions in the governing document.
- Recognise acting as corporate trustee, the local authority has a duty to be prudent and to act solely in the best interests of the charity.
- Ensure there is a clear line of responsibility for the management of all charities for which the local authority is the corporate trustee.
- Ensure that there are clear guidelines for officers and councillors about roles, responsibilities and decision making in the administration of charities.
- Ensure the local authority has a clear process for identifying and managing any conflicts of interest that arise where the local authority is the corporate trustee.
- Actively manage any charity for which the authority is the corporate trustee – keeping records up to date, submitting the necessary returns to the Charity Commission and reviewing investments, risks and opportunities on a regular basis.
- Periodically review whether it continues to be in the best interests of the charity for the local authority to remain as trustee.
- Follow Charity Commission guidance (and obtain appropriate advice) if the local authority is planning to dispose of charity land, alter the charitable purpose or other terms of the governing document, or take action where trusts have become dormant.

**APPENDIX 3
CHARITY TRUSTEE: WHAT'S INVOLVED**

[HTTPS://WWW.GOV.UK/GUIDANCE/CHARITY-TRUSTEE-WHATS-INVOLVED](https://www.gov.uk/guidance/charity-trustee-whats-involved)

**APPENDIX 4
DISPOSAL OF CHARITY PROPERTY**

Statutory Provision	Type of Disposal	Procedure required	Qualified Suveyor's Report required?	Charity Commission consent required?
Section 120 of the Charities Act 2011	Disposal of a lease for 7 years or less with no fine or premium	<p>The Trustees should:</p> <ul style="list-style-type: none"> • Obtain a report from an individual with relevant experience and expertise • Be satisfied that the terms of the disposal are the best that can be reasonably obtained <p>Certain statements and certificates will need to be included in the disposal documents.</p>	No	No
Section 119 of the Charities Act 2011	<p>Disposal of:</p> <ul style="list-style-type: none"> • A sale transfer or conveyance of freehold land • A lease for more than 7 years • A grant or release of a right, easement or restrictive covenant • A lease for less than 7 years with a 	<p>The Trustees should:</p> <ul style="list-style-type: none"> • Obtain and consider a written report from a qualified surveyor • Advertise the disposal (unless otherwise advised by the surveyor) • Be satisfied that the terms of the disposal are the best that can be 	Yes	No

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	<p>fine or premium</p> <ul style="list-style-type: none"> Any other disposal of land not specifically excluded 	<p>reasonably obtained</p> <p>Certain statements and certificates will need to be included in the disposal documents.</p>		
<p>Section 121 of the Charities Act 2011</p>	<p>Disposal of designated land</p> <p>Designated land refers to specific property which is being held by the charity for a particular purpose of the charity and is not going to be replaced after the disposal.</p>	<p>If there is no intention to replace the land then the objects of the charity will almost certainly need to be changed to reflect the new position.</p> <p>The objects of a charity can only be changed with the Charity Commission's consent.</p>	<p>No</p>	<p>Likely</p>
<p>Section 118 of the Charities Act 2011</p>	<p>Disposal of land to a connected person</p> <p>For these purposes a "connected person" is one of the following people who qualify at the time of the disposition in question or at the time of any contract for the disposition in question:</p> <p>(a) a charity trustee or trustee for the charity,</p> <p>(b) a person who is the donor of any land to the charity (whether the gift was made on or after the</p>	<p>Charity Commission consent will be required.</p>	<p>Yes</p>	<p>Yes</p>

Statutory Provision	Type of Disposal	Procedure required	Qualified Suveyor's Report required?	Charity Commission consent required?
	<p>establishment of the charity),</p> <p>(c) a child, parent, grandchild, grandparent, brother or sister of any such trustee or donor,</p> <p>(d) an officer, agent or employee of the charity,</p> <p>(e) the spouse or civil partner of any person falling within any of paragraphs (a) to (d),</p> <p>(f) a person carrying on business in partnership with any person falling within any of paragraphs (a) to (e),</p> <p>(g) an institution which is controlled:</p> <p style="padding-left: 20px;">(i) by any person falling within any of paragraphs (a) to (f), or</p> <p style="padding-left: 20px;">(ii) by two or more such persons taken together,</p> <p>(h) a body corporate in which:</p> <p style="padding-left: 20px;">(i) any connected person falling within any of paragraphs (a)</p>			

Statutory Provision	Type of Disposal	Procedure required	Qualified Surveyor's Report required?	Charity Commission consent required?
	<p>to (g) has a substantial interest, or</p> <p>(ii) two or more such persons, taken together, have a substantial interest.</p> <p>Sections 350 to 352 (meaning of child, spouse and civil partner, controlled institution and substantial interest) apply for the purposes of subsection (2).</p>			
Charity Commission guidance	Disposal of land to a non connected person but consent required	<p>The Charity Commission may consider making an order if the charity cannot comply with the requirements of Section 117 - 120 where:</p> <ul style="list-style-type: none"> • The cost of obtaining a surveyor's report would be out of all proportion to the value of the transaction and the Charity Commission can be reasonably certain that the value of the transaction is genuinely low • The land is in a remote area where it may be difficult to find a qualified surveyor with sufficient knowledge of local land values 	No	Yes

Statutory Provision	Type of Disposal	Procedure required	Qualified Suveyor's Report required?	Charity Commission consent required?
		<ul style="list-style-type: none"> • The disposition is proposed for undervalue that is not outside the scope of section 117 by exemption under s117(3) <p>Generally speaking the Charity Commission will want to know the charity considers it needs an order and shall need to see evidence of:</p> <ul style="list-style-type: none"> • The value of the land • How the charity has advertised the disposal • The charity's decision making processes including how the charity has managed any conflict of interest <p>In some cases it may be that the cost of obtaining a surveyor's report far outweighs the benefit the charity will receive from the disposal. For example, the charity may be disposing of easements and the Charity Commission has dealt with the charity recently on similar low value transactions, as valued by the charity's surveyor, in the recent past.</p>		

Statutory Provision	Type of Disposal	Procedure required	Qualified Suveyor's Report required?	Charity Commission consent required?
		<p>The charity may ask the Charity Commission to consider making an order under S117(1) in these circumstances.</p> <p>The Charity Commission will still need some information to consider the reasons, as set out below:</p> <ul style="list-style-type: none"> • The reasons why the charity considers it needs an order • An assessment of the value of the land • Details of advertising the charity has carried out including when, where and for how long you have advertised or your reasons for not advertising • Minutes of the meetings where the decisions involved in the disposal process have been discussed <p>To expand on the circumstances where a charity may not be able to comply with Section 117 – 121 of the Charities Act 2011 may include:</p>		

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		<p>The charity land is situated in a remote area and it is difficult to find a surveyor or one who is experienced in the particular type of land involved. In these circumstances the charity's only option may be to instruct an estate agent to value the land for the charity. The estate agent's report should follow a similar pattern and contain similar information as required by a qualified surveyor's report. However, because the charity will not be able to comply with the requirements of s117 - 120 the commission will have to make an order.</p> <p>In many cases a disposal under value will be because it is being made to another charity with the same objects. In such a case the disposal will be exempt from the requirements of s117.</p> <p>However, there may be other circumstances where a disposal under value would be appropriate.</p> <p>An example of this might be where the charity is disposing of the property to a public authority which was intending to use the property for a purpose which was compatible with the objects of the charity.</p>		

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		Such a disposal is not exempt under s117(3) so the charity will need to apply for an order to sanction the disposal.		