

## **Roberts Park (formerly known as Saltaire Park)**

26 March 2015

### **Background**

The charity consists of a park containing 14 acres of land with The City of Bradford Metropolitan District Council as the corporate trustee. The river Aire runs through the park and the council as trustee requested permission from the Commission to dispose of 0.11 acres for the building of a hydro-electric plant. The request to dispose of the land had come from another department within the council and therefore this represented a connected party transaction. The council had employed an independent surveyor to determine the value of the parcel of land and informed the Commission they had taken independent advice from a solicitor.

On the 20 November 2014 the Commission made an order to authorise the disposal of the charity land as a connected party disposal.

### **Reviewers' decision on whether the order should be discharged.**

The decision review was conducted by a member of staff senior to the original decision maker. The reviewer examined if the order should stand or be discharged under s337(4)(b) of the Charities Act 2011.

The reviewer considered all the information supplied by the council as trustee, information on the council's website and s117 to s121 of the Charities Act 2011.

### **Conclusion**

An order of the Commission would be required as the disposal represented a connected party transaction. The council would be required to publish the proposed disposal of charity land as per the Charities Act 2011 unless they wrote to the Commission and received a dispensation. There is no evidence that this was requested or granted.

The independent valuation was based on a freehold disposal of the land.. The council later informed the Commission that the proposed disposal would be via a lease of the charity land. There is no evidence that an independent valuation was conducted on leasing the land or details supplied of the proposed terms of the lease.

### **Decision**

The s117 order dated 20 November 2014 should be discharged as it was made by mistake and not in conformity with the Charities Act 2011 as regards:

### **Mistake**

- There is no record that the conflict of interest between the council as the statutory body and as charity trustee has been considered. There is no explanation as to how the conflicts have been managed within the council.
- There has been no explanation as to why the proposed disposal is in the best interests of the charity compared with the interests of the council in its statutory capacity.

### **Conformity with the Charities Act 2011**

- S119(1) requiring a qualified surveyors report on the terms of the proposed disposal. The surveyors report provided was for a sale of the freehold and not a lease at an economic rent.
- S121 requiring publication of the proposed disposal.