



Case Report

Oxley Park

About the charity

The charity was set up almost one hundred years ago to provide an open recreation ground for the people of Stocksbridge, in Sheffield.

Why the commission got involved

The charity's objects are to provide an open space for outdoor recreation. The local council is the corporate trustee of the charity. This means that the council holds the land on trust for the charity, but the land does not form part of the council's corporate property. Most of the charity's land has been used in line with its objects as a park. However, part of the land had been used in breach of trust for a number of years, as the trustee (a predecessor authority to the council that is the current corporate trustee) built a leisure centre on it, in the mistaken belief that it would be within the objects of the charity.

The council recently decided to close the leisure centre. This caused significant local concern from people who wanted the leisure centre to remain open. A group of local residents joined together to set up a new charity, with the aim of leasing the leisure centre from the council to keep it open. Because the land on which the leisure centre was based was being used in breach of trust, this step required our involvement. We needed to grant a scheme, a legal document providing permission to broaden the objects for that part of the land where the leisure centre was built so that it included wider recreational purposes.

The action we took

Mindful of the apparent concern among the local community, we took a pragmatic approach. We asked the trustee to find out whether local people really supported the plans. We also assessed the overall use of the charity's land, and established that the charity was still fulfilling its original purpose through the park.

What we found

We found that there was wide-spread local support for the continued operation of the leisure centre. We agreed that the best way forward would be to widen the objects of the charity to allow the piece of land the leisure centre was built on to be used for indoor as well as outdoor recreation. We agreed that a lease could be given by the charity to a new charity set up to run the leisure centre.

Impact of our involvement

The local community was able to keep this popular facility open, whilst retaining the rest of the land as an open recreation space just as the original donor intended.

Our involvement ensured that the breach of trust was dealt with properly and that the correct legal process was followed.

Lessons for other charities

Trustees of charities holding land have a responsibility to know whether or not that land is **designated** for a particular purpose, for example for use as open recreation space, or as a school. Such land may not be used for another purpose, or be sold or leased without the required authority.

All charities must therefore carefully check their trusts when considering a change in land purpose or when making decisions about disposing of land. Unless such situations are managed carefully, there is a high risk of breach of trust.

In addition, local authorities that are corporate trustees of charities must ensure they keep land they hold as local authority separate from that they hold as trustee of a charity. We frequently see problems arising as a result of failures by local authorities to fulfil their duties as trustees when making decisions about charity land.

In this case, we were able to step in as regulator to manage a breach of trust and to find a solution that suited the particular circumstances, so that the charity could continue to serve its beneficiaries effectively. However, our response here was specific to the circumstances; often breaches of trust have very serious regulatory consequences for charities and for trustees, especially when the charity loses out financially as a result.

Related reading

Trustees of charities holding land should familiarise themselves with our guidance [Sales leases transfers or mortgages: what trustees need to know about disposing of charity land \(CC28\)](#) and [Changing your charity's governing document \(CC36\)](#).