



**CHARITY COMMISSION**  
FOR ENGLAND AND WALES

Local authorities in England and Wales

Sent via email through LGA networks

**Chief Executive Officer**  
Charity Commission

PO Box 211  
Liverpool  
L20 7YX

**Date:**

Dear Local Authority CEO

### **Regulatory Alert – local authorities as charity trustees**

I am writing to introduce myself as the new Chief Executive of the Charity Commission for England and Wales and to ask you to take action to ensure your organisation's compliance with its duties when operating as a charity trustee.

As a fellow public sector leader, I know that these are tough times for local authorities, which are having to step up to the pressures created by ever increasing demand coupled with tighter budgets.

It is therefore not unsurprising that we have seen a rise in the disposal of, or a change of purpose for, charitable assets such as buildings or land as councils look to balance their budgets in challenging circumstances.

We are however also seeing a significant number of cases where local authorities have failed to comply with their legal duties as charity trustees and we have had to take action following receipt of complaints from the public. Such cases can be costly and resource intensive for both local authorities and for us as the regulator. Often these changes, if not done correctly, will also result in additional budget pressures on local authorities rather than providing the additional resources initially thought.

Common problems we see include local authorities changing the use or status of charitable land, or disposing of it, in a way that is not compatible with its charitable purpose, sometimes without even realising it is charity property. As well as causing concerns for local beneficiaries of the charitable asset, it can create a significant administrative headache for the local authority to retrospectively correct the situation. We have dealt with recent cases involving local authorities which highlight the inherent risks of councils not identifying issues pertaining to charitable land early enough, or at all.

### **Action Required**

Firstly, it is important that local authorities understand which of the assets they manage or own are charitable. Many local authorities act as trustees of charities, often of public facilities such as recreation grounds and public gardens; concert halls and buildings of historic interest; swimming pools and war memorials. Often due to the passage of time or turnover of personnel authority leaders and councillors don't realise that they are trustees of charitable assets rather than simply owners of an



asset. We therefore recommend that your local authority review the asset register and clearly identify on it those assets held which are charitable. This will ensure that it is clear at all times to employees and elected representatives which assets are subject to charity law.

You should then ensure you are familiar with the different legal requirements and legal restrictions on actions in relation to assets that are charitable rather than simply owned. To support local authorities, we have recently published new formal [guidance for local authorities](#), and I ask that you require your teams to read it carefully. The guidance:

- outlines what is expected of you in the role of trustee
- gives advice on how to handle issues such as managing conflicts of interest
- explains filing accounts requirements; and
- sets out rules around disposing of charity land

We have also produced a shortened version for councillors, jointly with the Local Government Association. Please do circulate it to your elected representatives.

We do recognise the administrative demands that being a trustee may place upon you, which is why we have produced this guidance to support you and your teams. When acting as trustee the law requires you to comply with key responsibilities, at the heart of which sits the requirement to exclusively further the charity's purposes. This guidance sets out how to do so.

I would also ask you to consider our new [Recreation Ground Charity guidance](#) which examines some of the common problems that trustees of such charities often encounter and what they can do to address these, such as hiring new trustees and exploring avenues for raising additional funds. We've seen cases of recreation ground charities approaching their local authority for help, so it is useful for you to understand our guidance for these charities.

If you have any queries about your trustee duties or anything contained within the guidance mentioned above, then please do not hesitate to be in touch with our contact centre or with the Local Government Association, with whom we have worked closely on the development of this guidance. The Commission is committed to supporting local authorities as trustees, as key partners within the civil society landscape.

Yours faithfully,

A handwritten signature in black ink that reads "David Holdsworth". The signature is written in a cursive style with a large initial 'D'.

**David Holdsworth, Chief Executive**