

The Ivers Parish Council  
 Clerk, Stephanie Bennett  
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 SL0 9ND

YOUR REF  
 OUR REF 45036.001/MB/MB  
 REPLY TO Butler House  
 T 01372750109  
 E Mariam.Baraki@wellerslawgroup.com  
 DX East Horsley 141174  
 DATE 10<sup>th</sup> August 2021

Dear Stephanie

**Re: General Advice**

Thank you for instructing me to provide advice in relation to the Iver Heath Recreation Ground.

I have reviewed the following:

- Conveyance of 22 December 1930 between Mr Arthur Sherren and The National Playing Fields Association of the Freeholds at Iver Heath Bucks.
- Conveyance of 12 May 1931 between Mr Arthur Sherren and The National Playing Fields Association of the strip of freehold land at Iver Heath, Bucks.
- Lease of 8 February 1940 from the National Playing Fields Association to The Iver Parish Council
- Lease of 28 February 2001 between National Playing Fields Association, The Iver Parish Council and Iver Heath Bowls Club
- Iver heath Recreation Charity Status
- Community Use Agreement between The Ivers Parish Council and Iver Heath Football Club
- Charity Commission Scheme dated 13<sup>th</sup> October 1939

By conveyance dated 1930 and 1931, the land including the strip was transferred from Mr Arthur Sherren to The National Playing Fields Association (NPFA) to use as recreation grounds for the benefit of the Parish of Iver Heath. These two conveyances created a recreation ground charity. The NPFA were appointed as Custodian trustees and the Iver Heath Parochial Council was appointed as the administrative trustee (managing trustee) to deal with the day to day management of the charity.

On the 8 February 1940, NPFA granted a lease of the recreation ground and the strip to the Iver Parish Council to maintain and use the land for the sole purpose of a recreation ground for the benefit of parishioners. This lease in itself does not create charitable trust.



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According to the charity commission website, the Recreation Ground is a registered charity of which the Parish Council are the sole managing trustees. The governing document referred to is the 22 December 1930 conveyance and 13<sup>th</sup> October 1939 Scheme. The 1939 Scheme, is a permission from the charity commission to the charity for granting a lease of the land to the council. Within this permission, charity commission have approved the grant of a lease to council, provided that the lease contains a restrictive covenant whereby the council shall use the land as public open space and for no other purpose. I understand that a building has since been built on the land. The charity may need to obtain retrospective consent.

As it stands, the Parish Council are lessees of the Recreation Ground and also the sole managing trustees. As the conveyance of 1930 has been registered with the charity commission, the entire Recreation Ground is charitable land and any building. The holding trustees are NPFA and the managing trustees are the Parish Council.

As there is a lease in place, the council are wearing two essential hats when dealing with the recreation ground. Firstly, they are acting as managing trustees of the charity and are therefore responsible for the day to day management of the charity. Secondly they are acting as tenants under the lease and are to use the land in accordance with the terms of the lease.

#### **Operation as managing trustee**

As managing trustees, the Parish Council is responsible for the day to day management of the Recreation Ground. All income generated from the lease to the Parish Council or any licences/lease to any other organisation, belongs to the charity. All expenses falling under the responsibility of the charity must be paid from the income. In the event of a deficit, the Parish Council can grant funds as local authority, to the charity to cover the additional expenditure.

It would be my advice to set up a separate bank account for the charity. This will simplify the accounting and also record keeping on behalf of the charity as managing trustees. The Parish Council can submit back dated accounts to the charity commission, going back as far as they are able to do so.

#### **Operation under the lease**

All income generated from the land and recreation ground from hire fees belongs to the Parish Council as local authority under the lease. The bookings will need to be managed by the Parish Council under the lease.

#### **Other**

The Bowls club lease, the Community Use Agreement and any other agreements with clubs can be granted, provided that the clubs do not have a closed membership.

The recreation ground does not need to be run under the trust. As there is a consent and a lease in place, the recreation ground can be run by the Parish Council under the terms of the lease for the duration of the term.

Any building whether constructed by the charity or by the Parish Council, belongs to the charity.

The Parish Council must hold meetings as trustee of the charity, as and when necessary. This would include all decisions relating to the various agreements such as leases.

**Next Steps**

It is important for the Parish Council to consider how it wishes to run and manage the recreation ground, i.e as a tenant under the lease or as managing trustees. If the Parish Council wish to run the recreation ground as managing trustees and terminate the lease, then please let me know and I can provide some guidance on this.

Please let me know if you have any further questions or if you would like me to expand on any parts of this advice.

Yours faithfully

A handwritten signature in black ink, appearing to read 'Mariam Baraki', with a long horizontal flourish extending to the right.

**Mariam Baraki**  
**Solicitor**