



HALE PARISH COUNCIL

OF THE HALTON BOROUGH IN THE COUNTY OF CHESHIRE



MEMBERS OF THE COUNCIL ARE SUMMONED TO THE EXTRA-ORDINARY MEETING OF **HALE PARISH COUNCIL**

TO BE HELD AT 6.30PM ON 9th DAY OF JANUARY 2020 IN HALE VILLAGE HALL,
HIGH STREET, HALE VILLAGE, HALTON, CHESHIRE, L24 4AE.

Cllr L Trevaskis (Chairman)

Note to Councillors:

If you are unable to attend the meeting, please notify the clerk of your apologies either by e-mail clerk@haleparishcouncil.gov.uk or telephone 01772 733829

Note to Public:

Members of the public wishing to address the Council should note that they must advise the clerk before 10am on the day of the meeting both of their wish to participate in the public forum and their topic. If residents fail to inform the clerk prior to the meeting, permission to speak at the meeting will be at the discretion of the Council. All participants are restricted to a maximum of three minutes. If the public wish to ask the Council questions, please note that the Council may not be able to answer the question if the council has not considered or resolved the question on an agenda item at a prior meeting. Should this be the case, the Council will advise correspondence with the clerk to request the item be discussed at a future parish council meeting. If the question is considered outside the remit of Hale Parish Council, residents will be referred to Halton Borough Council.

MEETING AGENDA

1. To receive Apologies.
2. To consider resolution to exclude the public and press under the Public Bodies (Admission to Meetings Act) 1960 on the grounds of the confidential nature of the business to be transacted.
3. To receive Declarations of Interest.
4. To adjourn the meeting for a period of public participation.
5. To ratify and resolve that Hale Parish Council took on the management of Hale Village Hall Charity as Sole Trustee in 2017 in accordance with the business plan submitted to the National Lottery on which grant funding for the building of a new VH was based and agreed.
6. To arrange for and amend the 1974 Trust Deed of Hale Village Hall Charity so as to replace the clauses covering appointment of a management committee of Trustees with a clause or other required documentation appointing Hale Parish Council, as a separate corporate entity. as the Sole Trustee of Hale Village Hall - this to be achieved through ACRE at a cost of approximately £300.

7. To remove the names of the disbanded Trustees from the Charity Commission's website and replace with Hale Parish Council as the Sole Trustee.
8. To authorise the Trustee of Hale Village Hall Charity, once the above documentation has been completed, to establish a new Hale Village Hall Management Committee in line with the business plan submitted to the National Lottery and in accordance with ACRE guidelines governing the management of a Village Hall managed by a Sole Trustee.
9. To consider approaching National Lottery to request an extension to the project and ask that the remaining revenue grant money be spent on the recruitment of a bookings officer for Hale Village Hall to assist with the open/closes and ensure correct management of all bookings.

Hale Village Hall

Our ref – 1014055/C510336

Dear Mr Mcennerney-Whittle,
Thank you for your letter.

Please accept our apologies for the time it has taken to respond, this is due to the high volume of work the Charity Commission is dealing with at this time.

According to our records the charity is governed by a Conveyance and Trust Deed adopted in 1974. Under this deed the property described therein was conveyed to the Parish Council to be held upon the trusts and subject to the powers and provisions set out in the First Schedule to the deed.

The deed provides for the charity's property to be held upon trust for the purposes of a village hall for the use of the inhabitants of the area of benefit. The charity is to be managed and administered by a committee of management, appointed in accordance with the provisions contained within the deed. The members of the committee of management are the trustees of the charity as defined under the Charities Act 2011.

Clause 2 of the First Schedule to the deed provides for the Parish Council of Hale to be the custodian trustee of the Charity.

The hall is owned by the charity and title to the property is merely vested in the Council as custodian trustee of the charity. Any decisions relating to the management and administration of the charity, should be taken by the committee members.

I can confirm that according to the Trust Deed dated 1974, there must be 6 elected trustees along with 12 representative trustees and 3 co-opted trustees.

The role of custodian trustee is to hold title on behalf of the trustees of the Charity and does not have any bearing on the management and day to day operation of the charity.

“The use of nominees/custodians in the administration of a charitable trust serves the following purposes:

It eliminates the need to transfer the title to trust property whenever there are changes in the trustee body: it also eliminates the administrative disadvantages which, in practice, ensue when the need to do this is overlooked

It facilitates the transfer of trust property into, and out of, the trust for example, when shares are bought and sold

It reduces the risk of trust documents evidencing the title to the trust property being lost – quite apart from the consequential

risk of loss to the trust property itself, the replacement of such documents can be expensive”

The current trust deed will need to be followed to establish a management committee to ensure the effective operation of the charity.

The Charity Commission cannot formally interpret the Deed and can only advise that the trustees take legal advice on the most appropriate way forward here.

Many complaints against charities, or disputes involving charities, are brought to our attention. We can only become involved in cases where our powers and responsibilities enable us to and where we can be of use. We cannot, for example, become involved in disputes between a charity and its employees, or in a dispute involving a contract between a charity and a third party.

We can only become involved in matters which are within our jurisdiction. Details of the types of issues which we can become involved in, is contained on our website under the following link:

<https://www.gov.uk/government/publications/complaints-about-charities/complaints-about-charities>

An online complaints form is available on our website. This should be completed if we are to consider any complaint issues, in accordance with our published guidance.

It seems that a dispute has arisen as to who the properly appointed trustees are for this particular charity. The Charity Commission does not generally become involved in disputes.

Our guidance <https://www.gov.uk/disagreements-and-disputes-in-charities>

sets out in more detail when we will or will not get involved in a dispute. It also provides guidance about resolving the dispute and sources of help available to the charity.

We expect those involved in the dispute to follow the approach set out in the guidance. Essentially we will not become involved unless we have evidence to show that:

- o There are no validly appointed trustees; and
- o All other methods of resolving the dispute have failed.

We expect all the charity trustees and members to work together to settle any differences they have. If your trustees can't reach an agreement and follow the directions in your governing document, you may need to look for some independent external help.

An independent third party will look at both sides and come up with some fresh ways to resolve the dispute.

Guidance regarding this is available upon our website. Here is a link:

<http://www.charitycommission.gov.uk/trustees-staff-and-volunteers/trustee-board/disagreements-and-disputes/>

I hope this is of assistance to you.

Kind Regards

Carlie Burke

Charity Commission - 'without prejudice' comments include:

1. *It was suggested that when the conveyance of the trust was handed to the Parish Council the trust deed should have been properly conveyed and that if paperwork administered by the disbanded committee*
2. *It was suggested that the Trust deed may well not be fit for purpose in its current form and that a trust cannot be owned. The Trustees are solely there to administer the Trust Deed, and if they have not been administering it for a number of years then what evidence are the disbanded trustees relying upon to legally prove that they are still currently managing the charity lawfully in line with the Trust Deed*
3. *It was advised that the records kept on the CC website cannot lawfully be relied upon, just because the names have not been taken off does not mean they remain trustees*
4. *The disbanded trustees handed over records, keys and access to the online platform thereby confirming their intention to no longer be involved*
5. *It was suggested that if Hale PC has been acting as the sole trustee for a number of years, and no other person has any evidence that they too have been acting as trustees, then Hale PC are the only body to have maintained the conveyance of the trust deed*
6. *It was suggested that Hale PC has not ratified that it has been acting as sole trustee since at least 2017, then it should consider bringing all paperwork up to date, resolve a new Deed of Appointment and amend the Trust Deed to reflect the acting in a sole trustee managing capacity.*
7. *The Trust deed clearly states that members of the Management Committee were to be the trustees of the Charity - therefore when the Committee disbanded in 2017 there were no trustees left any longer. (committee and trustees are one in the same)*
8. *Trusteeship must not be seen as a title - it is a responsibility requiring clear regular action as outlined in the Trust Deed*
9. *All trustees must retire at each ANNUAL meeting and can only continue if re- elected and that no person can act as a trustee unless they have signed the minute book after election or re-election.*
10. *If there are no members of the committee, due to disbandment then there is no person of the disbanded committee able to call a meeting of members.*