

ECC

Shoreham Village Hall.

A short history of the Deeds, Trustees' Resolution and advice
on the Hall's Constitution 1924 - 1987

1. The land on which the Hall is built was given by Lord Mildmay of Flete to trustees on behalf of the people of Shoreham in 1924. The land and the Hall are held:-
 - a. under an Indenture of 2 May 1924 stating that the Hall shall be used in connection with the Parish of Shoreham and setting out its purposes.
 - b. Under a Trust Deed of 3 May 1924 by which the management and control of the Hall is vested in a General Committee subject to powers of the Trustees to appoint members of the General Committee should their number fall below 7. The Deed also sets out rules for guidance including one requiring the Committee to provide all such funds as the Trustees may consider necessary.
2. A Resolution of the then Trustees dated 16 Feb 1959 embodying an undertaking to the Carnegie United Kingdom Trust in consideration of a Grant of £200. This sets out the village organisations who should nominate one person each for appointment to the Committee. There were 13 but provision was made for other organisations from time to time. In other respects the appointment of the Committee should conform with the Model Trust Deed for Village Halls, published by the National Council for Social Service, 1958 if not inconsistent with the trust deed. The intention seems to have been to permit elected members and co-opted members in addition to the representative members.
3. Under a Deed of Appointment 3 February 1965 The Shoreham Parish Council was appointed "Sole Trustee" of the Trust Deeds. It seems that the wording of the Appointment was submitted to the Kent Council of Social Service from whom a reply dated 10 March 1964 commented that control and management of the Hall would remain in the hands of the Committee, and that under the Trust Deed arrangements it was unlikely that the Hall would be considered eligible for a capital grant from the Ministry of Education. No action seems to have been taken, though the Parish Council was advised to apply for a "Scheme" to overcome the problem. However, it is known that the Trustees handing over to P. opposed any change.
4. The Hall was entered in the Register of Charities on 3 July 1963, by Min. Educ.
5. Because of the problem associated with capital grants and the doubts about the administrative arrangements which should be followed an attempt was made in 1987 to redraft a constitution as a joint effort by Parish Council and Committee. When finished it was submitted to the Kent Voluntary Service Council. In turn it was sent for comment to the Charity Commission, with comments. Later Mr. Hobday, Deputy Director (who will be present today) attended a meeting of Council & Committee and made it clear that ^{for grant purposes} the Parish Council should cease to be Sole Trustee but become "holding Trustee," while the Committee became "Managing Trustees" collectively responsible for finance. The Charity Commission replied on 7 August 1987, however, that there was no power contained in the Trust Deed for amendment and that only a Scheme by the Commissioners could alter the Trusts. Unfortunately this letter, addressed to the Voluntary Service Council, whose sense was conveyed to the Parish Council did not make its full impact until 1988 when the structural defects of the Hall posed such problems. The Charity Commission's letter in full will be available at the meeting today.

Of necessity the above is only a summary of what is a complex story but it is against this background that questions may be addressed to Mr. Hobday, whose knowledge of Village Hall management is unrivalled.

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THE GENERAL PRINCIPLES OF MEMBERS' LIABILITY OF UNINCORPORATED VOLUNTARY ORGANISATIONS

In February 1976, as the direct result of the publicity afforded to a case in Norfolk where the Treasurer of a Village Sports and Social Club (not a charity) had been held personally liable for the club's debts, the National Council for Voluntary Organisations (then the National Council of Social Service) issued a guidance note for individuals serving on the management committees of unincorporated voluntary organisations such as Village Halls, County Community Councils, Councils for Voluntary Service, Community Associations and the like, i.e. organisations which are charities at law (whether registered with the Charity Commissioners or not). Such committee members, being the persons having the general control and management of the administration of a charity, are "charity trustees" within the meaning of Section 46 of the Charities Act 1960, and as such will be subject to the requirements of the law relating to trustees generally. Experience shows that the demand for guidance in this area of the law has by no means diminished: hence, this restatement of the general principles.

- (1) Each committee member must be fully aware of the purposes for which the charity has been established and of the means by which those purposes are to be attained. Put another way, each member must familiarise himself/herself with the charity's constitution.
- (2) Each committee member must take as much care in his or her business dealings on behalf of the charity as would a reasonable man or woman in the case of his or her own personal business matters. This means that committee members must act rationally, sensibly and carefully. They should not incur in any contract or other liability unless they are reasonably sure that the charity will have adequate funds to meet any payment due from it.
- (3) In practice, one of the main problems from the committee members' point of view, is likely to be that of proving that they have at all times acted responsibly. It is, therefore, vital that (a) proper minutes and records of all decisions and transactions are kept, and (b) notice (preferably written) is given at the time of any particular transaction to the supplier of the goods and/or services in question to the effect that the arrangements are being entered into on behalf of the charity and not by the committee member(s) personally.
- (4) If a committee member gives a personal guarantee for the fulfilment of a contract entered into on behalf of the charity, he or she will be personally liable on that contract to the limit of his or her own private resources - though court proceedings are normally only instituted as a last resort and after months - sometimes years - of prior negotiation and correspondence.
- (5) By taking the precautions outlined above, committee members should reduce the risk of individual personal liability, though the strict legal position is, broadly, as follows:-
 - (a) Committee members are collectively and individually personally liable on all contracts entered into on behalf of a charity (including covenants given in a deed to which they are parties) and for all acts and omissions where a duty of care is owed to third parties.
 - (b) Whilst a committee member who has acted in accordance with the relevant trusts will usually have the right to be indemnified (reimbursed) out of the assets of the charity (though only, of course, up to the limit of the property actually owned by the charity, so that any deficit may have to be made up by the member and/or the other members out of their own pockets), the supplier of the goods or services with whom he or she has dealt or the person to whom a duty of care is owed and who suffers loss by reason of the member's negligence or other breach of duty will be entitled to sue the member personally.

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him or her as the person responsible for carrying out the relevant obligations.

- (c) Where, on the other hand, the committee member's conduct has been negligent, reckless or in breach of trust (i.e. outside the scope permitted by the constitution) no indemnity will be allowed. Moreover, a member cannot avoid ultimate responsibility by delegating power to others, for example, to the secretary or other officer(s) of the charity.
- (d) However, if it can be shown that a committee member has acted honestly and reasonably and in all the circumstances ought fairly to be excused, the courts (and the Charity Commissioners) have power to exonerate him or her from personal liability for breach of trust.
- (e) Although charity trustees may generally act by a majority decision (in contrast to private trustees), a dissenting minority will not escape responsibility unless they have at all material times actively and publicly disassociated themselves from the relevant decision.
- (f) Where the question at issue is an internal one between a committee member or members and the charity itself, i.e. does not involve third parties, the member(s)' personal liability towards the charity may be limited to the amount of the charity's property passing through his or her hands.

It must be clearly understood that no note is capable of covering all cases, each of which in the last analysis has to be dealt with on its own facts. Committee members are, therefore, strongly recommended to consult their professional advisers in relation to any particular problem.

December 1981

Compiled by the Legal Department
of the National Council for
Voluntary Organisations,
26 Bedford Square,
London WC1B 3HU

Register recorded on Charity Commission register
www.charitycommission.gov.uk

Sealed 31st January 1991

36(S)
91

County - Kent
Parish - Shoreham
Charity - Village Hall

on line Password
~~PAC TYSHM~~

18/11/10 Password
3WYWE86E
CD(Ldn2)
302,840/1

Adjudged not chargeable
with stamp duty

Scheme including appointment of
Trustees

CHARITY COMMISSION

In the matter of the Charity known as the Village Hall, in the Parish of
Shoreham, in the County of Kent, comprised in a deed of gift dated the
2nd May 1924 and a trust deed dated the 3rd May 1924; and
In the matter of the Charities Act 1960.

THE CHARITY COMMISSIONERS FOR ENGLAND AND WALES HEREBY
ORDER that the following Scheme be approved and established as the Scheme for the
regulation of the above-mentioned Charity:-

S C H E M E

1. Administration of Charity. (1) The above-mentioned Charity and the property
thereof specified in the schedule hereto and all other the property (if any) of the Charity
shall be administered and managed in conformity with the provisions of this Scheme.

(2) The name of the Charity shall be Shoreham Village Hall or such other name as
the Committee of Management of the Charity from time to time by resolution may
decide with the prior approval of the Charity Commissioners.

TRUSTEES

2. Trustees and vesting. (1) Shoreham Parish Council shall be the Custodian
Trustee of the Charity.

(2) The land with the building thereon specified in the said schedule is hereby
vested in the said council for all the estate and interest therein belonging to or held in
trust for the Charity.

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(3) Until the end of the first annual general meeting to be held as hereinafter provided the existing Trustees of the Charity at the date of this Scheme shall be the Managing Trustees of the Charity as the charity trustees thereof within the meaning of section 46 of the Charities Act 1960, but from and after the end of that meeting the Committee of Management hereinafter constituted shall be the Managing Trustees of the Charity as the charity trustees thereof as aforesaid.

OBJECT

3. Object of Charity. (1) The object of the Charity shall be the provision and maintenance of a village hall for the use of the inhabitants of the Parish of Shoreham (hereinafter called "the area of benefit") without distinction of political, religious or other opinions, including use for meetings, lectures and classes, and for other forms of recreation and leisure-time occupation, with the object of improving the conditions of life for the said inhabitants.

(2) The said land and building shall be held upon trust for the purposes of a village hall as aforesaid.

COMMITTEE OF MANAGEMENT

4. Constitution. Subject as hereinafter provided, the Committee of Management (hereinafter referred to as the Committee) shall consist when complete of fourteen persons (hereinafter referred to as Members) being

Four Elected Members and
Ten Representative Members.

5. Elected Members. Subject as hereinafter provided for casual vacancies, the Elected Members shall be appointed at the annual general meeting to be held as hereinafter provided and shall hold office from the end of the annual general meeting at which they are appointed.

6. Representative Members. (1) Two Representative Members shall be appointed by the Parish Council. *MRS. MARY INNISS / TREVOR CARMEN*

(2) One Representative Member shall be appointed by each of the following organisations:

YOUTH CLUB, The Shoreham Society,
The Royal British Legion,
The Shoreham Women's Institute,
~~The Shoreham Country Dance Club~~,
The Shoreham Village Players,
The Shoreham Over 60's Club,
Mother and Toddler's Playgroup,
Shoreham Horticultural and Cottage Gardens Society, *SYLVIA POYNTER*
THE HISTORICAL SOCIETY *JOAN PAYNE*

(3) Each organisation shall notify the name of the person appointed by it to secretary of the Committee.

(4) The appointment of a Representative Member may be made not more than one month before the annual general meeting and the term of office of a Representative Member so appointed shall commence at the end of that meeting.

(5) If an organisation entitled to appoint a Representative Member fails to do so within the said period of one month before the annual general meeting the appointment shall be made as soon as practicable after that meeting. The term of office of a Representative Member so appointed and of a Representative Member appointed to fill a casual vacancy shall commence on the day on which notification is received by the said secretary.

7. Co-opted Members. The Committee may appoint if they think fit not more than two Co-opted Members. Each appointment of a Co-opted Member shall be made at a meeting of the Committee to take effect from the date of that meeting.

8. Termination of membership. (1) Any member who is adjudged bankrupt or makes a composition or arrangement with his or her creditors or who is incapacitated from acting or who communicates in writing to the Committee a wish to resign shall thereupon cease to be a member.

(2) All the Members shall retire from office together at the end of the annual general meeting next after the date on which they came into office but they may be re-elected or re-appointed.

9. Additional Representative Members. The Committee shall have power by a resolution passed at a duly constituted meeting by the votes of not less than two-thirds of the Members for the time being to allow the appointment of an additional Representative Member by any organisation in the area of benefit not already named in this Scheme.

10. Alteration to constitution of Committee. The constitution of the Committee as hereinbefore provided may on the application of the Committee be altered from time to time by Order of the Commissioners.

11. Casual vacancies. (1) Upon the occurrence of a casual vacancy the Committee shall cause a note thereof to be entered in their minute book at their next meeting and in the case of a vacancy in the office of Representative Member shall cause notice thereof to be given as soon as possible to the organisation entitled to fill the vacancy.

(2) A casual vacancy in the office of Elected Member may be filled at a meeting of the Committee to take effect from the date of that meeting.

12. Failure to appoint. The proceedings of the Committee shall not be invalidated by any vacancy among its Members or by any failure to appoint or any defect in the appointment or qualification of a Member.

13. Declaration by Members. No person shall be entitled to act as a Member whether on a first or on any subsequent entry into office until after signing in the minute book of the Committee a declaration of acceptance and of willingness to act in the trusts of this Scheme.

14. Members not to be personally interested. Except in special circumstances with the approval in writing of the Commissioners no Member shall take or hold any interest in any property belonging to the Charity otherwise than as a trustee for the purposes thereof, or receive any remuneration, or be interested in the supply of work or goods, at the cost of the Charity.

MEETINGS AND PROCEEDINGS OF THE COMMITTEE

15. Meetings of the Committee. The Committee shall hold at least four ordinary meetings in each year. A special meeting may be summoned at any time by the chairman or by any two Members upon seven clear days' notice being given to all the other Members of the matters to be discussed.

16. Chairman. (1) At the first meeting in each year after the annual general meeting the Committee shall elect one of their number to be chairman of their meetings until the commencement of the first meeting after the annual general meeting in the following year and may also elect one of their number to be vice-chairman. The chairman and vice-chairman shall always be eligible for re-election.

(2) If the chairman and vice-chairman (if any) are absent from any meeting of the committee the Members present shall choose one of their number to be chairman of the meeting before any other business is transacted.

17. Voting. Except as hereinbefore provided every matter shall be determined by the majority of votes of the Members present and voting on the question but in the case of equality of votes the chairman of the meeting shall have a second or casting vote.

18. Minutes and accounts. A minute book and books of account shall be provided and kept by the Committee.

19. Rules. Within the limits prescribed by this Scheme the Committee may from time to time make and alter rules for the conduct of their business and for the summoning and conduct of their meetings and in particular with reference to -

(1) the terms and conditions upon which the said buildings may be used for the purposes specified in the Scheme by persons or bodies other than the Committee and the sum (if any) to be paid for such use;

(2) the appointment of an auditor, treasurer and such other unpaid officers as the Committee may consider necessary and the fixing of their respective terms of office.

(3) the engagement and dismissal of such paid officers and servants as the Committee may consider necessary; and

(4) the number of Members who shall form a quorum at meetings of the Committee, provided that the number of Members who shall form a quorum shall not be less than one-third of the total number of Members for the time being.

INSURANCE

20. Insurance. The Committee shall insure the said building and the furniture and effects therein to the full value thereof against fire and other usual risks arising out of the ownership of property and the employment of persons.

APPLICATION OF INCOME

21. Receipts and expenditure. (1) The income of the Charity including all payments for the use of the said building and all donations for the benefit thereof shall be paid into a trust account at such bank as the Committee shall from time to time prescribe.

(2) The moneys standing to the credit of the said account shall be applied as the Committee shall decide in insuring as aforesaid, in maintaining and repairing the said building and the furniture and effects therein and in paying all rent (if any), rates taxes, salaries of paid officers and servants and other outgoings and in otherwise furthering the object of the Charity.

22. Surplus cash. Sums of cash at any time belonging to the Charity not needed for immediate working purposes shall be invested in trust for the Charity.

ANNUAL GENERAL MEETING

23. Annual general meeting. (1) There shall be an annual general meeting in connection with the Charity which shall be held in the month of May in each year or as soon as practicable thereafter.

(2) All inhabitants of the area of benefit of 18 years of age and upward shall be entitled to attend and vote at the annual general meeting.

(3) The first annual general meeting shall be convened by the existing Trustees of the Charity every subsequent annual general meeting shall be convened by the Committee.

(4) Public notice of every annual general meeting shall be given in the area of benefit at least 14 days before the date thereof.

(5) Before any other business is transacted at the first annual general meeting after the date of this Scheme, the persons present thereat shall appoint a chairman of the meeting. The chairman of subsequent annual general meetings shall be the chairman for the time being of the Committee, but if he or she is not present, before any other business is transacted, the persons present shall appoint a chairman of the meeting.

(6) The Committee shall present to each annual general meeting the report and accounts of the Charity for the preceding year.

LETTING AND SALE

24. Letting. Subject to the condition that the use of the remainder of the said land and building for the object of the Charity shall not be unduly interfered with, the Committee may let any part thereof not for the time being required for use for the said object but the Committee shall not without the sanction of the Commissioners or a competent court create any tenancy wholly or partly in consideration of a fine or for a term ending more than 22 years after it is granted or for less than the best rent obtainable.

25. Sale. If at any time the Committee decide that on the grounds of expense or otherwise it is necessary or advisable to discontinue the use of the whole or part of the said land and building for the purposes of a village hall, and that decision is confirmed by a resolution passed by a majority of the inhabitants of the area of benefit of 18 years of age and upward attending and voting at a meeting of which public notice has been given in the area of benefit at least 14 days before the date thereof, the Committee may subject to the authority of a further Order or Orders of the Commissioners sell the said land and buildings or any part thereof and may do and execute all proper acts and assurances for carrying any such sale into effect.

26. Proceeds of sale. (1) Unless the Commissioners otherwise direct the clear proceeds of any such sale as aforesaid shall be invested in trust for the Charity.

(2) Thereafter, the Committee shall apply the clear income and subject to the approval of the Commissioners the property of the Charity in furthering the object of the Charity or for such other charitable purposes for the general benefit of the inhabitants of the area of benefit as the Committee think fit.

GENERAL PROVISIONS

27. Donations. The Committee may accept any donations or property for the general purposes of the Charity and they may also accept donations or property for any special objects connected with the Charity not inconsistent with the provisions of this Scheme.

28. Questions under Scheme. Any question as to the construction of this Scheme or as to the regularity or the validity of any acts done or about to be done under this Scheme shall be determined by the Commissioners upon such application made to them for the purpose as they think sufficient.

SCHEDULE

Land situate at Shoreham, in the county of Kent, having a frontage to the road from Filston to Eynsford being the land with the building thereon known as the Village Hall and comprised in the above-mentioned deed of gift dated the 2nd May 1924 and made between The Right Honourable Francis Bingham Lord Mildmay of the one part and Archibald Hamilton Balme and four others of the other part.

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£24,302.55 cash on deposit with the COIF Charities Deposit Account.

£652.37 cash on current account at the Sevenoaks branch of Lloyds Bank Plc.

This schedule is made up to the 24th September 1990.

Sealed by Order of the Commissioners this 31st day of January 1991.

L.S.

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