

From: FC Email Team (Queue) [<mailto:fcemailteam@charitycommission.gsi.gov.uk>]
Sent: 18 November 2014 10:22
To: Shelley Reynolds
Subject: FAO the Trustees of the Mary Stevens Charity CRM:0177008

Dear Mrs Reynolds

Mary Stevens Park – registered number 523195

I am writing to you as correspondent for the above named charity if you no longer hold this position I would be grateful if you could pass this correspondence onto your successor in order that it is brought to the attention of the relevant part of the Council that has responsibility for acting as the trustee for the charity.

I would explain that we have received concerns from Margot James MP about the accessibility by beneficiaries to use the above park. It is alleged that the Council are using some of the buildings for their statutory duties (Department for Environment and Department for Children's Services) and the Council staff have unrestricted and free of charge use of the recreation ground car park to the detriment of the beneficiaries. It is alleged that in order to alleviate this problem the Council propose to use some of the land owned by Swinford Common charity as an additional car park facility.

If I can provide a brief history for each charity,

- Mary Stevens Park – registered charity number 523195 – governed by a deed of gift dated 6 December 1929 – the Council as successors to The Mayor Aldermen and Burgess of the Borough of Stourbridge are the full trustee of the charity – the council hold this property for the trusts declared in the second schedule to this deed i.e. to be maintained as a Public Park and Recreation Ground (see clauses 1-3 of the second schedule)
- Swinford Common – registered charity number 523197 – governed by a conveyance dated 25 February 1928 – for the same reason as above the Council are the full trustee of the charity – the Council hold the property for the trusts declared in the conveyance under section (i) i.e. to permit the same to be left as an open space for the use of the inhabitants (especially children and young people) of the Borough of Stourbridge in perpetuity.

Both pieces of land are considered to be designated land i.e. also referred to as 'specie land', is required by the charity's governing document to be used for a particular purpose of the charity. There are certain restrictions over the disposal of this land, please see our guidance below.

I would be grateful for the trustees' comments on the above concerns, in particular I would be grateful for the following information,

1. Can you please confirm if the Council have disposed of any charity land or changed the use of any of the buildings erected thereon since the charities were established? If so under what authority? Did the Council as trustee obtain the relevant consents required by law at that time (currently section 117 of the Charities Act 2011)? I would be grateful for full details of each

instance together with the minutes of the meeting at which the trustees decided it was in the best interest of the charity to dispose of the land together with any professional received at that time.

2. Are the Council using the property to take forward its statutory duties? If so under what authority within the governing document have they allowed the use of the buildings? Do the Council pay a fee for the use of these buildings? If so upon what terms?
3. Does the Council allow its staff exclusive free use of the recreation ground car park to the detriment of the beneficiaries of the parks? I believe that the inhabitants have made representations to the Council about the inability to park on the charity land to be able to use the facilities. Can you please provide me with the trustees' comments on whether this is correct, details of the current car park arrangements and what they propose to do to resolve the current difficulties? Is part of the land held by Swinford Common charity an option?
4. Charity 523195 is up to date with its submissions however records a nil income and expenditure each year with the exception of 2008 where we did receive some accounts showing income and expenditure for a number of charities. Charity 523197 also shows nil income and expenditure and its latest submission is overdue. On this basis I would be grateful if you could please provide me with separate copies of the last five years accounts for each charity.

To assist the Council in providing the above information I would draw your attention to the following guidance.

Our publication 'Sales, leases, transfer or mortgages – what trustees need to know about disposing of charity land' provides full details of how the charity can dispose of charity land. It also provides full details on how designated land can be disposed of.

<https://www.gov.uk/government/publications/sales-leases-transfers-or-mortgages-what-trustees-need-to-know-about-disposing-of-charity-land-cc28/sales-leases-transfers-or-mortgages-what-trustees-need-to-know-about-disposing-of-charity-land>

Also our specialist guidance, Local Authorities as trustees OG 56, may be of interest.

<http://ogs.charitycommission.gov.uk/g056a001.aspx>

I would be grateful for a full response to all of the above within one month from receipt of this email.

Yours sincerely

Colette Flood (Mrs)
First Contact