

Questions to Lympstone Village Hall Management Committee from Lympstone Parish Council September 2019

The minutes of the Lympstone Parish Council meeting of 7th October 2019 have been published. Before that meeting the Council had asked the hall trustees ten questions about the ownership of the hall and related matters. The answers from the hall trustees reflect specific legal advice in relation to each relevant question and were received by the Council **before** its meeting on 7 October.

1. What documentation do VHMC have that states that the VHMC own the building and the land as the documentation the PC hold (1930 Conveyance and Title deeds) Permanent Title was given to the NCSS on behalf of the people of Lympstone?

The 1930 Conveyance created the charity and appointed a 'Council of Management' to run it (Sch. 2, para 2). Under the Charities Acts, that Council became the 'charity trustees' for that charity as they are responsible for its 'control and management'. NCSS was merely a **holding** trustee, appointed to hold property on behalf of the true charity trustees. The Charity Commission Scheme dated 12.4.1977 appointed the Parish Council as 'custodian' (or holding) trustee in place of NCSS. The Council of Management remained the managing trustees. As such, they 'own' the property, and by law the custodian trustee can only act as directed by the managing trustees.

2. Why are the VHMC claiming the property and land as an asset in their finances when the charity does not own and cannot hold assets such as property?

Because the charity is the true owner under the Conveyance and Scheme.

3. What would the Parishioners gain from changing the charity to a CIO?

The assurance that (a) the village hall can thrive under a new modern constitution that is fit for purpose and preserves its charitable objects and (b) villagers might be willing to serve as members of the VHMC (and therefore as trustees of the charity) if they knew that they were protected from personal liability.

4. As a CIO does not need to own the property or land, what is VHMC reason for demanding the ownership of it?

VHMC is not demanding ownership as it already owns the land as charity trustees (the PC being merely custodian trustees in law, as explained above).

5. What is VHMC reason for taking the assets from public property ownership to private property?

It isn't. The status of the assets will remain unchanged.

6. Why couldn't the VHMC change its status to a CIO without owning the property and land?

These questions are based on a misunderstanding of the legal status of the charity and its trusteeship. Why should the charity give up what it has already got – other than to a new incorporated charity established for the same charitable purposes? The Council is not a charity.

7. Could VHMC provide an example of a successful model of a CIO? Including clear evidence of a model where a CIO had been successful in another Parish for more than 10 years.

Unlikely as CIOs only came into existence in 2013. But there are many examples to be found on the Charity Commission website: just enter 'Village Hall CIO'. One of the first was Broadhempston in 2013 – see <https://www.broadhempstonvillagehall.org.uk/>

8. Can you detail what controls the charity commission have in place to protect the assets from being sold or borrowed against in the future?

Charities Act 2011, sections 117 and 124. See link:
<http://www.legislation.gov.uk/ukpga/2011/25/contents>

9 Why has LPC been removed as a trustee when they are representing a group from the Parish?

The Parish Council has had the right to appoint a trustee since the establishment of the village hall charity. It has never been taken away and the current situation is that it is not exercising it. David Atkins has an invitation to attend all the regular VHMC meetings; he receives papers and is a consistent attender; we have treated him as an observer (on the same footing as the village school).

10 Who are the current trustees of the village hall?

Don Mildenhall - co-opted (chairman)
Steve Morgan - co-opted (treasurer)
Clive Wilson - co-opted (secretary)
Sally Harradine - co-opted (licensing officer)
Vicki Drinkwater - co-opted
Marjorie Brewer - appointed by the Film Society
Bobby Brunt - appointed by The Women's institute
Brian Cotton - appointed by the Lympstone History Society
Anne Crisp - appointed by the Art Group
Greg Crum - appointed by the Lympstone Players
[Suki Commin*] - appointed by the Lympstone Garden Club
Paul Harradine - appointed by the Lympstone Tennis Club
Brian Mather - appointed by Lympstone Entertainments

They constitute the Village Hall Management Committee. Trustees are reported to the Charity Commission annually and are viewable online through their search system.

*Suki resigned in September this year.