

PUBLIC QUESTION NO. 1

Martin Brommell to ask the Chair of the Heights Free School Sub-Committee:

Mapledurham Playing Fields Trustees

What has any trustee done at all over and above the absolute legal minimum required of a trustee to uphold and enhance the Recreation Ground Charity 304328?

REPLY by Councillor Livingston (Chair of the Heights Free School Sub-Committee):

Mr Brommell has asked this question previously and received a full response from Chris Brooks on behalf of the Council (as trustee of the Recreation Ground Charity at Mapledurham).

The role of any charity trustee is clearly defined by the Charities Act 2011 and charity law more generally. The legal requirement made of any trustee is to exercise such care and skill as is reasonable in the circumstances in managing and controlling their charity. The obligation on any trustee is therefore to exercise its powers and discretion in line with this duty.

In relation to the Charity, the Council has (as trustee) taken all of the steps it considers to be necessary at this stage in order to comply with this duty in relation to both the day to day operation of the Charity and the proposed use of part of the Recreation Ground which is presently being consulted on by The Heights School.

The key steps taken are:

- Ensuring that the EFA are aware that the Recreation Ground is held by the Council as a charity trustee and the implications of this status in respect of any proposal the EFA may make in relation to the purchase of any part of the Ground.
- Delegating the Council's powers as trustee of the Charity to the Heights Free School Sub-Committee.
- Engaging with the Charity Commission in relation to the Council's role as trustee in the light of the possible submission of a proposal by the EFA.

The Council does not consider that, as trustee, there are any other steps that it can or should take to comply with its duty to the Charity at this stage.

To be clear, the Council (whether as local authority or as trustee of the Charity) has not at any time solicited a proposal from the EFA in relation to the purchase of any part of the Ground for use as the site for The Heights Free School.

In addition, the EFA has not to date contacted the Council formally (whether as local education authority or in any other capacity) with a proposal. If and when a proposal is received from the EFA, then this will be addressed by the Sub-Committee on behalf of

the Charity in line with the legal obligations imposed by charity law in relation to the Charity.

The reality is that the EFA is able to make a proposal if it wishes; the Council cannot prevent this. While the Council does not (as trustee) wish or intend to act as a "willing vendor" of the Ground, it is obliged as trustee to consider properly any proposal which is made and whether this is in the Charity's best interests. If the EFA does make a proposal, the Council's concern as trustee of the Charity is therefore to ensure that the proposal can be considered on this basis.

This should not be taken to suggest that the Council has (as trustee) pre-judged any proposal that the EFA may wish to make. A decision could only be made in the light of any such proposal and the position of the Charity at the time it is made.