

Parish Council power to make Trustee appointments

Parish Council's power to **appoint** trustees comes from Charities Act 2011 Sections 298 to 302.

There was an important case involving Rettendon Parish Council (Essex): Rettendon Parish **Council** v Hart [2020] EWHC 2221 (Ch)

Wrentham Parish Charity

In the Charity Commission document of 21.4.1998, there are 5 Wrentham charities that are brought together as one:

1. Poors allotment
2. Town Estate
3. Bull Fenland
4. Robert Edgar's Dole
5. Southwold Road Allotments.

The new Scheme

This sheme says that the above charities and their property, shall be administered and managed as one charity in the scheme as described.

Wrentham Parish Charity is the approved name. Can only be changed by the Trustees with approval of Charity Commission.

Investment of cash All sums of cash now or at any time belonging to the charity other than sums needed for immediate working purposes shall be invested in trust for the charity.

Ex officio meaning : A person who is a member because of the office or position they happen to hold. It is the office holder who is the member rather than the individual.

There shall be 6 **Trustees** as follows:

- Ex officio Trustee - Lord of the manor of Wrentham, if not less than 18yrs , and a natural person. Currently lady Gooch.
- Ex officio Trustee - the incumbent of Benefice which covers St Nicholas church. This will be the current Priest for St Nicholas Church Wrentham.
- 4 x Trustees shall be nominated by Wrentham parish Council every four years at an ordinary meeting of the Parish Council. The persons appointed by the council do not have to be members of the council.

Trustee Declaration. You can't be a trustee until you sign the Declaration of acceptance in the Trustee minute book.

Cessation of Trusteeship - Your Trusteeship ends if you are

- Disqualified by S72 Charities Act 1993 (Bankrupt, unspent convictions for dishonesty, or removed by charity commission)
- Incapable of managing own affairs by reason of illness or injury or mental disorder (in the opinion of the Trustees)
- Is a non officio trustee who didnt attend meetings for a year and the trustees resolve that their office be vacated.
- Gives one months notice to resign (but only if 3 trustees remain in office)

Vacancies vacancies shall be noted in the minute book. Parish Council may re-appoint any competent Trustee.

Meetings and procedures of Trustees

Ordinary meetings. Trustees shall hold at least 2 ordinary meetings each year. At the first meeting each year the Trustees elect one their number to be chairman. Chairman is always eligible for re-election. If ever chairman doesn't show up, then you wait 10mins and elect one from those present.

Special meetings - may be called any time (including immediately after an ordinary meeting) by the chairman , or any 2 Trustees who give 4 days notice of matters to be discussed.

Quorum is 3 trustees.

Voting - Trustees vote on a question and majority wins. Chair has casting vote.

Minutes Trustees shall keep minutes in books maintained for that purpose.

Accounts: Trustees to comply with Charities regs with regard to accounts and independent examination of them, and annual report to Charity Commission.

General power to make regulations Trustees can appoint a clerk, deposit money at a bank , make arrangements for custody of documents and other matters pertaining to conduct of business.

Application of income

Expenses Trustees shall first take from the charity income, all proper costs, charges, and expenses of and incidental to the admin of the charity.

Application of income - Trustees

- *“shall apply the income of the charity in relieving either generally or individually persons resident in the Parish of Wrentham who are in conditions of need hardship or distress by making grants of money or providing or paying for items, services or facilities calculated to reduce the need hardship or distress of such persons.”*
- *“May pay for such items, services, or facilities by way of donations or subscriptions to institutions or organisations which provide or which undertake in return to provide such items , services, or facilities for such persons.”*
- Persons adjacent to Wrentham eligible: *“In exceptional cases the trustees may grant relief to persons otherwise eligible who are resident immediately outside the said Parish but in the opinion of the trustees ought nevertheless for sufficient reason to be treated as resident therein, or who are located for the time being within the said Parish”*

Restrictions - Trustees shall not :

- Shall not - Apply any part of the income directly in relief of rates, taxes, or other public funds but may apply income in supplementing relief or assistance provided out of public funds.
- Shall not - commit to repeat or renew the relief granted on any occasion in any case.

General provisions

Appropriation of benefits - Decisions about giving out benefits shall be made by the Trustees at meetings and not separately by any individual Trustee or Trustees. However 2 trustees can be appointed on a committee for emergency cases but they must then report emergency actions to the Trustees.

Trustees not to be personally interested. No trustee shall receive remuneration or be interested in the supply of work or goods at the cost of the charity.

Questions under the scheme - You can't change the terms of the Governing document without charity commission approval. The validity of any acts done under the scheme are determined by the charity commission.

Dated 21/4/98

Accompanying notes

The notes have no legal force but indicate ways that income can be properly applied.