

Cobtree Manor Estate Charity Committee

3 August 2016

Is the final decision on the recommendations in this report to be made at this meeting?

Yes

Advice on the Status of Members of the Committee

Final Decision-Maker	Cobtree Management Estate Charity Committee
Lead Head of Service	John Scarborough, Head of the Legal Partnership
Lead Officer and Report Author	Estelle Culligan, Deputy Head of the Legal Partnership
Classification	Public
Wards affected	Boxley

This report makes the following recommendations to this Committee:

1. To note the contents of the report, which is for advice only.

This report relates to the following corporate priorities:

- Keeping Maidstone Borough an attractive place for all – The report relates to the status and role of members of the committee and therefore contributes to the continued good governance of the charity for the benefit of the Cobtree Estate.

Timetable

Meeting	Date
Committee - Cobtree	3 August 2016

Advice on the Status of Members of the Committee

1. PURPOSE OF REPORT AND EXECUTIVE SUMMARY

- 1.1 This report is intended to advise members and give them some reassurance about their role and liability as individuals sitting on the Cobtree Committee.

2. INTRODUCTION AND BACKGROUND

- 2.1 During the last meeting of the committee, on 26 March 2016, members raised their concerns about their possible individual liability as trustees sitting on the committee.
- 2.2 Members asked for some advice and reassurance on the points raised.
- 2.3 Maidstone Borough Council is the corporate trustee of the charity and is named on the Charity Commission's website as the trustee.
- 2.4 The Charity Commission has issued guidance which states that a councillor's liability depends on his/her status. The relevant issue is whether MBC has appointed the members of the committee as trustees or are they making decisions on behalf of the council as corporate trustee (i.e. managing the trustee's business).
- 2.5 The guidance states that the definition should be set out in the charity's governing document. The only such document is the original lease which transferred the park to the council on a 999 year lease to hold it on trust for the benefit of the borough. Subsequently the council set up a charity - the Cobtree Manor Estate Charity - to manage the estate. The wording of the lease indicates that the council is the trustee body.
- 2.6 The terms of reference of the committee are also relevant: "To be responsible for all matters related to the Registered Charity Number 283617 known as Cobtree Manor, and the land known as Cobtree Manor Estate, Sandling, Maidstone, Kent, **held by the Council as Trustee** under a 999 year lease....." (emphasis added).
- 2.7 It is quite clear therefore that as individuals on the committee, councillors do not sit as individual trustees (although as the council's committee appointed to manage the charity, members of the committee must always act in the charity's best interests).
- 2.8 The council as a "body corporate" is the corporate trustee of the charity and holds overall responsibility for decisions made about the management of the charity. The committee makes those decisions on behalf of the charity but members do not hold individual liability as trustees.
- 2.9 Councillors might wish to look at the Charity Commission's guidance, at the following link:
https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/352409/Local_authorities_as_charity_trustees.pdf