



Morda & Sweeney Village Hall. Dated - 15<sup>th</sup> March 2023.

Dear Ms Lloyd,

The Trustees of Morda and Sweeney Village Hall (MSVH) again write regarding the conduct of Oswestry Rural Parish Council (ORPC) and with reference to minute 1612.

We note that ORPC has stated no further correspondence will be entered into with the Charity Trustees but continue to discuss matters with Councillor Bennett, who is your nominated representative as a Charity Trustee for MSVH. The consequential item agreed by ORPC is considered detrimental to the Charity and not in its best interest.

The Trustees of MSVH are required by the Charity Commission to record any conflict of interest and deal with it. If, after considering the matter, a conflict of interest is identified it will be recorded in the minutes and any action required notified to persons concerned, or the Charity Commission may be asked to take specific action on behalf of the Charity.

The Trustees have also considered the decision of ORPC to withhold documents belonging to the Charity. This is despite our formal requests to surrender them to our named Solicitor.

ORPC is under a legal duty to comply with this request under the 1906 Public Trustee Act, section 4, sub-section 2(d). By withholding the requested documents, ORPC is acting unlawfully and having no power to act in this manner is also acting *ultra-vires*.

Although the validity of the 1996 Deed of Appointment is not accepted by the Trustees, ORPC should note: a) the content of clause 6 in the Deed, commits them to the provisions of the 1906 Public Trustee Act, and b) clause 8 commits ORPC to abide by the 1966 Trust Deed.

Clause 22 of the 1966 Trust Deed Schedule empowers the Committee to make and alter rules and regulations concerning its business, including "the custody of documents".

The Committee decision is that ORPC surrender those documents to a named Solicitor without delay. As stated above, these have been formally requested. However, ORPC minutes provide a public record of a refusal to do so. This is a breach of trust.

ORPC should also note the following, which is based on readily available information in the public domain. This is given in good faith to avoid the misuse of public money obtaining legal advice:

- The Charity was established in a Trust Deed (TD) dated 25 May 1966, which remains in force without amendment.
- In 1966, under the TD, the property title was vested in individual people appointed as Holding Trustees.

- Clause 2 of the TD Schedule required the Holding Trustees to vest the property in the Official Custodian. This should have been done immediately and the failure to do so is a breach of trust.
- The appointment of ORPC as Custodian Trustee in 1996 is not permitted by the TD and is therefore invalid. The TD expressly requires this function to be vested in the Official Custodian. Without amendment, all clauses in the TD remain valid.
- If there is any question regarding the validity of the ORPC appointment, as stated above, clause 8 of the 1996 Deed commits ORPC to abide by the 1966 TD.
- That commitment demands that whoever holds the property title on behalf of the Charity must comply with the 1966 Trust Deed clause 2 requiring them to vest the title in the Official Custodian. ORPC has also failed to comply with this and therefore has been in breach of trust for 27 years.
- Had ORPC complied with their obligations, they would have been removed as Custodian Trustee in compliance with the TD and replaced by the Official Custodian.

To regularise the situation, and comply with the Trust Deed, the Committee of Charity Trustees has now vested the property title in the Official Custodian. The Vesting Certificate dated 19th January 2023 affirms this has been accepted by the Charity Commission who provide the Official Custodian service.

Not only do the Charity Trustees have to comply with the Trust Deed, they have absolute power under the 1906 Public Trustee Act, s4, ss2(f), which states:

*The power of appointing new trustees, when exercisable by the trustees, shall be exercisable by the managing trustees alone,.....*

ORPC has been advised of this and they can no longer consider themselves as Custodian Trustee for the Charity. In addition, ORPC has to date, failed to provide the power they are using to justify their refusal to surrender the Charity's documents or seek to register the property title in the name of the Council.

The deliberate withholding of the Charity's document by ORPC is now preventing the Charity Trustees from meeting their legal duty to register the property with the Land Registry. This provides evidences how ORPC are not acting in the best interest of the Charity.

Please note, if our lawful requests for the surrender of the Charity's documents and the matter of conflict of interest is not addressed by ORPC, by the 31<sup>st</sup> March 2023, the Trustees will refer the matter to the Monitoring Officer at Shropshire Council.

Yours,

*Robert J Milton*