



CHARITIES COMMITTEE

Date: Tuesday, 24th February, 2015
Venue: Committee Room, Council Offices,
Kirkby in Ashfield at 6.30 p.m.

You are hereby requested to attend a meeting of the above Committee to be held at the time/place and on the date mentioned above for the purpose of transacting the business on the agenda set out below.

P.G. MARSHALL
Chief Executive

MEMBERSHIP

L.M. Gibbons
J. Grundy
K.A. Morrison
J.M.A. Wilmott
(Chairman)
J.B. Zadrozny

AGENDA

1. To receive apologies for absence, if any.
2. Declarations of Disclosable Pecuniary and Non Disclosable Pecuniary/Other Interests.
3. To receive and approve as a correct record the minutes of a meeting of the Committee held on 9th July, 2014 (pages 5 to 7).

PART A – REPORTS WHERE THE PUBLIC AND PRESS MAY NOT BE EXCLUDED

4. Trust Funds (pages 8 to 11).
5. Governance Arrangements for Teversal Community Centre and Recreation Ground (Charity Number 522310) (pages 12 to 18).

continued...

If you require an adjustment to enable you to participate or access the meeting, please contact the Democratic Services team at least 48 hours before the meeting (telephone 01623 457317 or e-mail l.cain@ashfield-dc.gov.uk). This meeting may be subject to filming or audio recording. Members of the public have the right to request not to be filmed or audio recorded at any point during the proceedings.

2/cont.....

PART B – WHERE THE PUBLIC AND PRESS MAY BE EXCLUDED IN ACCORDANCE WITH SCHEDULE 12A OF THE LOCAL GOVERNMENT ACT 1972 (AS AMENDED)

6. Lease Arrangement with the Groups occupying the Teversal Trust site (pages 20 to 22).

DECLARATIONS OF INTERESTS

There are two types of interests **Disclosable Pecuniary** and **Non Disclosable Pecuniary/Other Interests**.

Upon receipt of the attached agenda and reports you are urged to carefully read each item and determine whether you have an interest in any of them.

A standing item appears on every agenda in respect of interests and you should declare your interest at this stage in the proceedings. However, if you do not do so and it occurs to you during the discussion on the item that you should have declared an interest you must declare the matter as soon as it becomes apparent.

The following is a summary which has been prepared to assist you in deciding at the meeting whether you have an interest. It is not intended to be in substitution for the full provisions of the Code of Conduct which are contained in Part 5 of the Constitution.

Disclosable Pecuniary Interests

A Disclosable Pecuniary Interest is an interest in relation to a Member if it is of a description specified in Regulations and either:-

- (a) it is an interest of the Member's, or
- (b) it is an interest of (i) the Member's spouse or civil partner, (ii) a person with whom a Member is living with as husband and wife, or (iii) a person with whom a Member is living with as if they were civil partners, and the Member is aware that that other person has the interest.

A schedule of Disclosable Pecuniary Interests defined by the Secretary of State is set out at the end of this document. Failure to register a Disclosable Pecuniary Interest is an offence under the Localism Act 2011 and could lead on summary conviction to a fine not exceeding level 5 on the standard scale or disqualification for a period of up to 5 years by a court dealing with such an offence.

Action to be taken – Disclosable Pecuniary Interests

Where a matter arises at a meeting which relates to a Disclosable Pecuniary Interest, the Member shall declare the interest and not participate in a discussion or vote on the matter and must withdraw from the meeting room or Chamber during the whole consideration of the item unless a dispensation has been sought and granted.

Non Disclosable Pecuniary/Other Interests

Where a matter arises at a meeting which relates to a Non Disclosable Pecuniary/ Other Interest, a Member should declare that interest to the meeting and having done so, is then free to remain, speak and vote on the matter under consideration.

SCHEDULE OF DISCLOSABLE PECUNIARY INTERESTS Regulation 2

<i>Subject</i>	<i>Prescribed description</i>
Employment, office, trade, profession or vocation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by M in carrying out duties as a member, or towards the election expenses of M. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
Contracts	Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority— (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged.
Land	Any beneficial interest in land which is within the area of the relevant authority.
Licences	Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.
Corporate tenancies	Any tenancy where (to M's knowledge)— (a) the landlord is the relevant authority; and (b) the tenant is a body in which the relevant person has a beneficial interest.
Securities	Any beneficial interest in securities of a body where— (a) that body (to M's knowledge) has a place of business or land in the area of the relevant authority; and (b) either: (i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or (ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

If you are in any doubt you are urged to contact Ruth Dennis or the Democratic Services Team, preferably in advance of the meeting to discuss the matter. It would be even more helpful if details of your particular circumstances could be emailed so that a written response can be provided.

EXTRAORDINARY CHARITIES COMMITTEE

**Meeting held in the Council Chamber, Council Offices, Urban Road,
Kirkby-in-Ashfield,**

on Wednesday, 9th July, 2014 at 6.30 p.m.

Present: Councillor J.M.A. Wilmott, in the Chair;
Councillors L.M. Gibbons, K.A. Morrison and J.B. Zadrozny.

Apology for Absence Councillor J. Grundy.

Officers Present: Mrs. L. Cain, Mrs. R. Dennis, D. Greenwood.

In Attendance: Councillors J. Aspinall, Ms. G.C. Maxwell and
Mrs. M.A. Patrick.
P. Cockerill (Teversal FC).

CC.1 Declarations of Disclosable Pecuniary and Non Disclosable Pecuniary/Other Interests

Councillor J.B. Zadrozny declared a non disclosable pecuniary/other interest in relation to agenda item 4 (The Future of Teversal Trust). His interest arose from the fact that he held the position of member on the Teversal Grange Advisory Committee from 2007 to 2009.

Councillor J. Aspinall (in attendance) declared a non disclosable pecuniary/other interest to agenda item 4 (The Future of Teversal Trust). He advised the Committee that he had held recent discussions with directors from the clubs on site.

Councillor Ms. G.C. Maxwell (in attendance) declared a non disclosable pecuniary/other interest in relation to agenda item 4 (The Future of Teversal Trust). Her interest arose from the fact that she had previously held the position of member on the Teversal Grange Advisory Committee.

Councillor Mrs. M.A. Patrick (in attendance) declared a non disclosable pecuniary/other interest in relation to agenda item 4 (The Future of Teversal Trust). Her interest arose from the fact that she currently held the position of member on the Teversal Grange Advisory Committee.

CC.2 Minutes

RESOLVED

that the minutes of the meeting of the Charities Committee held on 7th February, 2013, be received and approved as a correct record.

CC.3 The Future of Teversal Trust

The Chairman requested the Committee to consider the recommendations as outlined in the report.

In accordance with Council Procedure Rule 24 as contained in the Council's Constitution, Councillors J. Aspinall, Ms. G.C. Maxwell and Mrs. M.A. Patrick, with the consent of the Chairman, were permitted to speak and take part in the Committee's ensuing discussions.

To assist Members with their deliberations, the Chairman invited Peter Cockerill, Chairman of Teversal FC, to address the Committee.

Members considered the alternative option of transferring the Trust to another trustee(s). Despite consideration of this action a suitable alternative trustee has not been identified.

RESOLVED that

- (a) the financial position of the Trust and the draft accounts for 2013/14 as attached at Appendix 1, be received and noted;
- (b) Council be recommended to approve the demolition of The Grange Building including delegating authority to the Chief Executive to enable him to apply for the necessary planning permission/consents for such demolition;
- (c) Council be recommended to approve the erection of a temporary building to include changing facilities, showers and a tea room to accommodate the Cricket Club;
- (d) Cabinet be recommended to ensure that the costs of the temporary building be met by the Council as further financial support to be recovered as part of the deficit when the Trust's financial position allows;
- (e) Cabinet and Council be recommended to grant delegated authority to the Chief Executive, in consultation with the Portfolio Holder for Corporate Services (for the Council) and the Chairman of the Charities Committee (for the Trust) to agree a formal repayment mechanism to enable the Council to recover existing and future financial support made in respect of Teversal Grange from the Trust when the Trust's financial position allows;
- (f) Council be recommended to approve the formalisation of arrangements with the clubs who use the site by way of 30 year leases and that Council delegates to the Chief Executive, in consultation with the Chairman of the Committee, the ability to agree Heads of Terms, enter into negotiations with the clubs and finalise such leases.

Reason:

In order to move the Trust into a viable position where it can fulfil its aims, which are:

“to provide and maintain the facilities and recreation grounds for the communities of Teversal, Stanton Hill, Skegby and the surrounding area.”

(In accordance with Council Procedure Rule 19.5, Councillor J.B. Zadrozny requested his vote against the recommendations to be recorded).

CC.4 Sutton in Ashfield Recreation Grounds 2006 Charitable Trust

The Chairman requested the Committee to consider the recommendations as outlined in the report.

Members considered the alternative option of declining to proceed with the land exchange but this would have serious legal consequences for the Council and the Trust and was not recommended.

RESOLVED

that Council be recommended to approve the following:-

- (a) to instruct the District Valuer to prepare an up to date report;
- (b) if the new report from the District Valuer (outlined in (a) above) shows that it remains in the best interests of the Sutton-in-Ashfield Recreation Grounds 2006 Charitable Trust to dispose of the part of the Lammas Recreation Ground identified in plan A attached to Ashfield District Council and receive in return the part of Sutton Lawn Pleasure Ground identified in plan B attached from the Council then such action be implemented;
- (c) external solicitors be engaged to represent the Trust in respect of the land transactions to avoid the Assistant Chief Executive being in conflict when dealing with the Council's interests as distinct to those of the Trust;
- (d) on completion of the land exchange, the Schedule to the Constitution of the Trust should be amended in order to reflect:
 - i. the land which has been removed from the Trust; and
 - ii. the land which has been added.

Reason:

The land exchange is the final step necessary in order to release part of The Lammas Recreation Ground from the Trust to which it is subject and to impose Trust restrictions upon part of The Sutton Lawn Pleasure Grounds.

The meeting closed at 7.30 p.m.

Chairman.

5. BACKGROUND

Closing a Charity

The Law allows charities to be closed for a number of reasons. Such reasons include insufficient funds to achieve the purposes of the trust or that the original purpose is no longer relevant.

Before a charity can close, the Trustees must consider if effective use of the remaining funds can be made by transferring them to another charity with a compatible purpose. Any debts or liabilities must also be cleared before spending/transferring any remaining assets.

If a registered charity is closed, the Charity Commission must be informed.

After a charity is wound up, the Trustees must ensure its financial records are retained for at least 6 years from when they were made.

If a charity was originally given property to be held by it forever it is said to be a “permanent endowment”. This could be the case where money was given for a charitable purpose and the donor specified the money should be invested with only the income to spend on the purposes of the trust. In such cases, to spend or transfer the money may require Charity Commission consent. To transfer the money Trustees must hold a meeting to make such a decision, agree by at least two thirds of them voting that it is the right thing to do, the trustees must decide how to transfer the assets and ensure they are used for substantially similar purposes.

The Charities

The four trust funds are:

(a) Wansley Hall Trust Fund - Balance at 04.12.14 - £403.84

This fund was set up in 1981 for the purpose of conserving the historic remains of Wansley Hall (the remains of a Norman manor house in Bagthorpe). This work was completed by the end of 1988. Clearly, the original purpose is no longer relevant with the purpose being satisfied some years ago.

Potential charity - The Thoroton Society of Nottinghamshire – Reg. No. 237755

The Society’s aims are: to promote knowledge, understanding and appreciation of the history, archaeology and antiquities of Nottinghamshire, and to support local research and conservation. The charity operates across Nottinghamshire.

(b) Charles Beastall Beecroft Trust Fund - Balance at 04.12.14 - £267.97

This fund was established by a will in 1924 (and a scheme dating to 1929) to purchase coal for the poor in Sutton in Ashfield. The charity (no. 214547) was removed from the register in 1997. The remaining funds are insignificant and the use of coal as a fuel source has diminished since 1924.

Potential charity - Rural Community Action Nottinghamshire (RCAN) – Reg. No. 519405

RCAN works to create strong and inclusive rural communities in which social disadvantage is addressed. RCAN's oil purchasing scheme helps members save money as they save on average at least five pence per litre on each order. The scheme also benefits the environment by reducing the number of tankers on Nottinghamshire’s country roads, and cutting vehicle mileage.

(c) William and Mary Barratt Swimming Prize Fund Charity- Balance at 04.12.14 - £233.46

This fund was established by will in 1935 to purchase swimming prizes for elementary school children in Hucknall. The charity is registered (no. 528222). The remaining funds are now insignificant.

Potential charity - Hucknall and Linby Dolphins Swimming Club – Reg. No. 1108343

Hucknall and Linby Dolphins Swimming Club is a long established swimming club for local youngsters. The club caters for youngsters ranging from complete beginners through to competitive swimmers to compete in local Galas and Open meets where any swimmer can enter.

(d) William Booth Charity for the Poor - Balance at 04.12.14 - £1,848.99 (income held in bank account) Investment value - £2,119.98 at 31.12.14

This fund was established in 1944 and operates under a scheme from 1994 for the benefit of residents of Annesley Woodhouse experiencing hardship. The charity was removed from the register in 2004 (reg. No. 241186). A capital sum was bequeathed to be invested with the income to be used for the trust purpose. As such, it is believed this is a permanent endowment as described above.

Proposal - Ashfield Voluntary Action (AVA) / All Saints' Church Annesley Community Food Bank

The Food Bank is run in conjunction with Ashfield Voluntary Action and several local churches: St. John's - Kirkby Woodhouse, Forest Road Methodist, All Saints - Annesley and St Wilfrid's - Kirkby in Ashfield. Working from the Church Hall at St. John's Church, Skegby Road, Kirkby Woodhouse. Bags of food are given to referred people and families in need on a Thursday and out-of-hours in emergency cases. However, it is unclear precisely how this food bank is administered overall and whether it has charitable status. If the Committee and Council are minded to consider this as a possible option, further work will have to be undertaken to clarify the charitable status.

6. IMPLICATIONS

Corporate Plan:

Stronger and more resilient communities where people want to live, work, play and be involved

- Helping vulnerable people access the support they need, when they need it
- Reduction in fuel demand across the district (domestic and business properties)
- Improve Community Health and Wellbeing

Legal:

The legal issues are detailed in the report.

Financial:

The Council is in the process of changing banks and therefore the opportunity to close trust fund accounts by transferring balances would be beneficial.

Health and Well-Being / Environmental Management and Sustainability:

No Implications

Human Resources:

No Implications

Diversity/Equality:

No Implications

Community Safety:

No Implications

Other Implications:

None

BACKGROUND PAPERS

None

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CHIEF EXECUTIVE

AGENDA ITEM: 5.

REPORT TO: CHARITIES COMMITTEE DATE: 24 FEBRUARY 2015
HEADING: GOVERNANCE ARRANGEMENTS FOR TEVERSAL COMMUNITY CENTRE AND RECREATION GROUND (CHARITY NUMBER 522310)
PORTFOLIO HOLDER: N/A
KEY DECISION: NO SUBJECT TO CALL-IN: NO

1. PURPOSE OF REPORT

The report is to clarify the governance arrangements for the Teversal Community Centre and Recreation Ground (Charity Number 522310).

2. RECOMMENDATION(S)

To note the Council's governance arrangements for dealing with Trusts for which it is the Sole Trustee.

To note the details of the Scheme (Constitution) for the Teversal Community Centre and Recreation Ground.

To note the arrangements for the Advisory Committee.

To agree that the Advisory Committee shall meet for an Annual General Meeting once a year and hold four Ordinary Meetings in a year.

3. REASONS FOR RECOMMENDATION(S)

To comply with the Scheme (Constitution) of the Teversal Community Centre and Recreation Ground, the Council's Constitution and charities legislation overall.

4. ALTERNATIVE OPTIONS CONSIDERED (with reasons why not adopted)

The Constitution of the Teversal Community Centre and Recreation Ground, the Council's Constitution and charities legislation must be complied with. The Committee could consider alternative meeting arrangements for the Advisory Committee (such as holding a different number of meetings in a year) but in doing so the legal requirements set out in the report must be complied with.

5. BACKGROUND

Governance Of Trusts By The Council - Charities Committee – Terms Of Reference And Delegations

The Charities Committee was created by the Council on 11 December 2008, in line with advice received from the Charity Commission. The Council was strongly advised to create a Charities Committee to enable it to effectively manage all the Charitable Trusts for which it is the Sole Trustee.

The provisions of Section 101 Local Government Act 1972 give the Council the power to establish Committees such as the Charities Committee. Council resolved that the remit of the Charities Committee is:

“To deal with all matters concerning the day to day management and administration of the Charities for which the Council is the Sole Trustee.”

The Committee’s role is to assist the Council as Trustee in:-

- (i) ensuring compliance with Charity Law and reduce the risk of breaches of what is wide-ranging and complicated legislation;
- (ii) maintaining control over the Trusts;
- (iii) acting within the purposes of the Trusts;
- (iv) ensuring that management of the Trusts focuses on their best financial interests;
- (v) allowing day to day decisions to be taken without the need to report to Council.

The existing Terms of Reference for the Committee were approved by Council in February 2013 and are incorporated into the Council’s Constitution at Part 3, Sections 1.1 and 1.8 and are attached as Appendix A.

Teversal Community Centre and Recreation Ground (Charity Number 522310)

The Scheme (or Constitution) governs the administration and management of the Charity.

The current Scheme was sealed by the Charity Commission on 12 April 1989.

The Teversal Social Welfare Centre was originally owned by the Coal Industry Social Welfare Organisation (CISWO) and regulated by a Scheme made by the Secretary of State on 22 December 1969.

Amid rising Trust (CISWO) debts the property became vested in the Official Custodian and the 1989 Scheme vested the property in ADC as the Trustee of The Teversal Community Centre and Recreation Ground as the Charity is now called.

The object of the Charity is:

Provision and maintenance of a community centre and recreation ground for the use of the inhabitants of Teversal, Stanton Hill, Skegby and the neighbourhood thereof (the area of benefit) without distinction of political, religious or other opinions including use for meetings, lectures and classes and for other forms of recreation and leisure time occupation, with the object of improving the conditions of life for the said inhabitants.

Ashfield District Council is the Sole Trustee of the Charity. The Council exercises its Trusteeship through the mechanisms set out above via Council, the Charities Committee and delegations to officers.

Advisory Committee

The Scheme states that *“in the administration and management of the Charity the Trustee [the Council] shall consult the Advisory Committee.”* The Advisory Committee has no decision making powers in relation to the administration and management of the charity; decision-making falls to the Council through the mechanisms already set out above.

Members of the Advisory Committee

The Advisory Committee shall consist when complete of eleven persons being nine Representative Members and two Co-opted Members.

The Scheme defines the Representative Members as being:

- (1) Three Councillors appointed by Ashfield District Council;
- (2) Two representative members appointed by each of the following organisations:
 - Teversal Miners Welfare Bowls Club.
 - Teversal Miners Welfare Cricket Club.
 - Teversal Miners Welfare Football Club.

The Scheme defines the Co-opted Members as being *“appointed for a term of one year by a resolution of the committee passed at a meeting of which not less than 21 days notice has been given.”*

Any Member who is adjudged bankrupt or makes a composition or arrangement with his or her creditors or who is incapacitated from acting or who communicates in writing to the Committee a wish to resign shall thereupon cease to be a Member.

The Committee has the power by a resolution passed at a duly constituted meeting by the votes of not less than two-thirds of the Members for the time being to allow the appointment of an additional Representative Member by any organisation in the area of benefit not already named in the Scheme (for example, the Visitors Centre).

The arrangements for the Advisory Committee may only be amended by Order of the Charity Commissioners.

No person shall be entitled to act as a Member of the Advisory Committee until after signing in the minute book of the Committee a declaration of acceptance and of willingness to act in the trusts of this Scheme.

Except in special circumstances with the approval in writing of the Commissioners no Member of the Advisory Committee shall take or hold any interest in any property belonging to the Charity otherwise than as a trustee for the purposes thereof, or receive any remuneration, or be interested in the supply of work or goods, at the cost of the Charity.

Meetings And Proceedings Of The Advisory Committee

The Scheme requires the Advisory Committee to hold at least two ordinary meetings in each year. A special meeting may be summoned at any time by the chairman or by any two Members upon seven clear days notice being given to all the other Members of the matters to be discussed.

At the first meeting in each year after the annual general meeting the Committee shall elect a chairman and a vice-chairman. If the chairman and vice-chairman are absent from any meeting of the Committee the Members shall choose one of their number to be chairman of the meeting before any other business is transacted.

The quorum for a meeting shall not be less than one-third of the total number of Members for the time being.

Every matter shall be determined by the majority of votes of the Members present and voting on the question but in the case of equality of votes the chairman of the meeting shall have a second or casting vote. Minutes of the meetings shall be made.

The Advisory Committee's role is to provide an overview to the Council based on its Member's experiences in relation to the administration and management of the Charity. The Council can also consult the Advisory Committee on specific issues. For practical purposes the views of the Advisory Committee should be reported regularly to the Charities Committee. In accordance with the Scheme, it is recommended that the Advisory Committee meets for an Annual General Meeting once a year and holds two Ordinary Meetings in a year.

6. IMPLICATIONS

Corporate Plan:

Ashfield District Council is an enabler of local leadership in Ashfield.

- Promoting, encouraging, and supporting Local Leadership in Ashfield
- Providing effective and value for money services
- Ensuring our people, structures, systems, processes and practices are 'fit for purpose'

Legal:

The legal and constitutional issues are detailed in the report.

Financial:

The administration costs associated with the Advisory Committee will be contained within existing budgets as these relate mainly to officer time.

Health and Well-Being / Environmental Management and Sustainability:

The overall purpose of the trust potentially benefits the health and well-being of residents of the District.

Human Resources:

There are no human resource issues identified in the report.

Diversity/Equality:

There are no diversity or equality issues identified in the report.

Community Safety:

There are no community safety issues identified in the report.

Other Implications:

None.

BACKGROUND PAPERS

None

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CHIEF EXECUTIVE

APPENDIX A –Terms of Reference

Council Will Retain Responsibility for the Following:

- Approval of land transactions – disposals including sales and leases *save as set out below and* excluding licences and short hiring arrangements
- Membership of the Charity Committee
- Constitutional/Governance issues and changes
- Mortgages
- Decisions to dissolve a Charity
- Receive an Annual Report from the Charities Committee including accounts relating to the Trusts
- Approval of the Annual Report and Accounts for the Registered Charities
- Making of Byelaws
- Fundraising *save as set out below in terms of grant funding applications*
- Scheme of Delegation to Officers
- Development of Trust Assets (such as new buildings or refurbishments or alterations)

Charities Committee Will be Responsible for:

- Day to day management and administration of the Charities *including repairs and maintenance of Trust land and buildings*
- *Approval of the surrender and/or assignment of a Lease*
- Receiving reports and requests from Advisory Groups
- *Approval of Rules and Regulations and Legal Agreements relating to User Groups*
- Delegation of specific management and administration issues to Officers as relevant
- Fiscal arrangements
- *To approve grant funding applications in principle*
- Making recommendations to Council in respect of any of the functions retained by the Council

Scheme of Delegations to Officers – to be Approved by Council:

Service Director – Economy

- Grant, renewal and variation of licences, wayleave agreements and short term hiring agreements
- Emergency repairs/maintenance of Trust land and buildings
- Day to day expenditure
- *To finalise and sign grant funding applications following approval in principle to such applications by the Charities Committee.*

Charities Committee - Terms of Reference

- (a) To ensure compliance with relevant Charity Law;
- (b) To make recommendations on, monitor and review the management, administration and associated arrangements for, the day to day running of all the Charities of which the Council is the Sole Trustee;
- (c) To promote the purposes of the various Charities of which the Council is the Sole Trustee and ensure that the Charities are run in accordance with the relevant Trust purposes;
- (d) To oversee and manage programmes of Trust development;

(e) To receive reports, accounts and requests from the relevant Advisory Groups.

(f) To make an annual report to the Council.