

Charlton St. Peter and Wilsford Parish Council
Minutes of the Quarterly Meeting
Held at Wilsford Village Hall on Wednesday July 20th 2016

Present: Mary Gillmore (MG) Chairman Neil Golding (NG) Vice Chair, Tim Fowle (TF)

Also Present: Dave Harvey (Clerk) (DH), Paul Oatway (PO)

No declarations of interest were made

Apologies for absence: Bob Montgomery (BM), Edward Paice (EP), Crime report from Wiltshire police attached.

1. Minutes of the meeting May 4th 2016 were agreed unanimously and signed by MG.
2. **WC Meeting** – Quiet period at WC, decision on closure of Everleigh HRC deferred until next year. Roadside verges on local junctions on A345 have been strimmed for safety reasons. Parish Steward programme restarts September.
3. **Matters arising**
 - 3.1 Replacement of Christopher Beese – no applications received by WC, **MG** still searching for Wilsford replacement to co-opt onto council.
 - 3.2 Wilsford high speed broadband – now operational
 - 3.3 Web site – all agreed to include pages for minutes (rolling previous two years) and standing orders; to be entered as pdf files. Accounts review discussed, left as viewable at RFO's home.
 - 3.4 CsP defibrillator –Ongoing
 - 3.5 Emergency Planning – Ongoing
 - 3.6 Resilient Community Fund – Julian Down (Wilsford village hall chair) in process of sourcing suitable storage shed.
 - 3.7 GSW – no further news – ongoing.
 - 3.8 NDP – on back burner, keep as ongoing.
 - 3.9 MG to confirm with Came & Co as our new insurers. WALC/Zurich to be informed as no longer required at time of renewal.
 - 3.10 PC's right of appeal against planning decisions - ongoing
4. **Planning**
 - 4.1 Various tree works applications in both villages, minor applications in CsP approved.
5. **RFO's Report**
 - 5.1 See attached report for further details.
 - 5.2 £100.00 donation to Wiltshire Air ambulance overlooked, deferred to November for probable doubling,
6. **Correspondence** - distributed by clerk
7. **Pewsey Area Board reports** – TF attended, PAB meeting minutes to be distributed when available.
8. **AOB**
 - 8.1 Custodial trustees of village halls – MG determined there is no financial responsibility in this role.(see her notes attached).
 - 8.2 Donations to CAB & Rushall school bible fund deferred to November meeting.
 - 8.3 Wilsford footpaths – WILS6 issues resolved, WILS1 – ongoing (WC dealing with breaches of Highways Act)
 - 8.4 New Clerk's contract of employment presented and signed by DH, MG & NG.
 - 8.5 MG sent letter of condolence to Robert Hall's widow, stating how much his support of the PC had been valued.
9. **Dates of next meetings:**

November 2nd 2016, February 8th 2017, May 3rd 2017, including AGM and Village Meetings
PAB – Date TBD (rota – EP, NG, BM, MG)

Meeting closed at 20:40
DWH (06/05/16)

Charlton St. Peter & Wilsford Police Report



Please find below details of crime committed in the Charlton St. Peter & Wilsford area since the AGM report of 9th May 2016. Please accept my continued apologies for non-attendance – this is down to me being office bound at the moment due to health issues. I hope to be out and about again soon.

No recorded crimes in the Charlton St. Peter and Wilsford area at this time.

From further afield:

Upavon – Hare Coursing/Criminal Damage

On 18/05/2016 at 11:49hrs in Vicarage Lane, there were initial reports of hare coursing in progress, vehicles were sighted driving through a corn field. Attending officer confirmed that there was damage to crops, vehicle margins and fencing. A padlock & chains have also been cut.

Chirton – ASB/Nuisance

On 17/06/2016 between 21:15hrs and 22:23hrs, report was received of a vehicle driving around a field doing handbrake turns, churning up the field. Vehicle described as a red Subaru estate/4x4 or similar.

Rushall – Suspicious Incident

Between 18/06/2016 at 08:00hrs and 21/06/2016 at 08:00hrs at Rushall Village Hall, RP reported that unknown suspect(s) have tampered with the oil tank gate valve. No damage has been caused and no oil has been stolen.

Pewsey – Dwelling/Non-Dwelling Burglaries

Between 08/05/2016 at 17:00hrs and 09/05/2016 at 09:00hrs in North Street, unknown suspect(s) have used a crowbar in an attempt to gain entry to outbuilding at the location. Damage has been caused to the door, resulting in a 6 inch split. There is a footprint on the door as well. No entry gained or property taken.

At the same location on 11/06/2016 at 03:50hrs, a loud bang noise was heard; a car was then heard to speed away. A panel in the workshop door had been taken off, and it was fully open. Items taken were; Huskqvarna 435 chainsaw, Huskqvarna 137 chainsaw, 2 x Echo hedge cutters, 1 box of sockets, 1 box of Allen keys.

Between 09/05/2016 at 22:30hrs and 10/05/2016 at 07:30hrs in Knowle, unknown suspect(s) have entered the property through rear French doors and stole 2 wallets, 2 laptops an iPhone and a mountain bike.

There have been a few burglaries and thefts in the Pewsey West area recently. To help protect your property, please ensure that you have:

- * ***Security marked items***
- * ***Recorded serial numbers***
- * ***Photographed items***
- * ***Locked away and secured when not in use***

*** Secured access points into yards/premises**

Please re-visit your security features on your property such as chains and locks, CCTV and lighting. This will ensure that you have the best possible deterrent to opportunist thieves.

We conduct regular target patrols to try and combat the number of burglaries, thefts and hare coursing incidents. Rural Crime Operations with the Rural Crime Team are held regularly together with our colleagues from the Tidworth area who are situated on our borders. We also have regular contact with Thames Valley Police who come up with some useful information on who is crossing from their area into Wiltshire and vice-versa.

Incidents of note from the Pewsey East villages:

Burbage – Action Fraud

On Tue 05/07/2016 at 11:55hrs, RP received a call from a male purporting to be from Scotland Yard's Fraud Prevention department. He stated that there was a male who went into the Apple store in London and tried to buy an iMac computer worth £1,499 using the RP's card. The male stated that a suspect was in custody, he had also tried to use his girlfriend's card. The male asked the RP to call 999 to verify his details – the RP did so and cut off the call, thus ending the scam.

Great Bedwyn – Action Fraud

On Tue 05/07/2016 13:33hrs, the RP received a call from a male purporting to be a Police Officer advising that the RP's Bank card had been used in a store in London and a Suspect had been detained. The RP was then asked to speak to his Bank. The Suspects remained on the RP's line and asked for the RP's pin number. The RP then realised it was a scam.

Please be vigilant if calls are received of this type. These incidents were reported on the same day. The callers can be very convincing when asking for your personal finance details. Never give your credit card or bank details out over the phone unless you are absolutely sure who you are dealing with. Please share this information with friends, relatives and relevant persons to reduce their risk of becoming victims of these crimes. If you have any doubts at all then please hang up immediately and let Wiltshire Police know on the 101 number. Advice and guidance can be found at: <http://www.actionfraud.police.uk>

We continue to proactively patrol the area as best we can with the resources available to us. We would like to remind all residents, particularly those in the more rural areas to be vigilant in reporting suspicious persons and/or vehicles to us via the 101 non-emergency number. If something appears out of place, no matter how small you may feel the matter is, then please contact us and let us know. Many thanks for your continued support.



**With kindest regards,
David McCalmont
PC 1717, Community Beat Manager Pewsey West.**

VILLAGE HALL CUSTODIAL TRUSTEES

Taken from Action with Communities in rural England

When is the parish council a custodian trustee and not the sole charity trustee? The majority of village halls are charitable and are managed by an independent management committee. The governing document may give the parish council the right to appoint a member of that committee. Many also have the parish council acting as custodian trustee on behalf of the charity. It is the custodian trustee's role to hold the title to the property on behalf of the management committee and to act on the lawful directions of the management committee in transactions relating to the property. **The custodian trustee has no role in the day to day managing of the property and its finances** (my emphasis). See Charity Commission Operational Guidance (OG39) as below

19th May 2016 Helen Cotter at Community First Wilts local representative for ACRE said that there is no legal requirement but 'best practice' is that holding/custodian trustees should not be Managing Trustees only Custodian Trustees but it is dependant on what the Governing Document in respect of the Village Hall says. The conveyance of which I have a copy makes no mention of anything in this respect. This poses the question whether the Village Hall Committee should be 'Managing Trustees' and not Custodian Trustees. This is what happened in 2005 but someone has amended the information on the Charity Commission's website.

OG 39 A1 Powers and Duties Last updated: 14 March 2012

1 What do we mean by "custodian trustee"?

1.1 "Custodian" or "custodian trustee"?

It could be easy to confuse the terms "custodian" and "custodian trustee" and it is important to ensure we are talking about the correct term in the correct context.

The term "custodian" used in the Trustee Act 2000 does not refer to custodian trustees, which are the subject of this OG. The principal differences are that the powers and duties of "[custodian trustees](#)" covered in this OG are exactly prescribed in the [Public Trustee Act 1906](#) - these do not extend to the type of custodian referred to in the Trustee Act 2000. In addition, a custodian trustee covered by this guidance must be a body corporate and may be appointed or removed as described here - different rules apply to custodians covered by the Trustee Act 2000.

The Trustee Act 2000 provides new powers to appoint custodians and nominees and these are supported by statutory guidance from the Commission on trustees' duties when appointing them - see [CC 42](#).

For further information about "custodians" under the Trustee Act 2000 and information about that Act in general see [OG 86](#).

1.2 What is a custodian trustee?



The term "custodian trustee" has a precise legal meaning. It was introduced in the [Public Trustee Act 1906](#). It covers all trusts, public and private, and does not apply only to charities. All trusts, whether charitable or not, may appoint a custodian trustee. Charitable companies are not trusts and cannot therefore operate with a custodian trustee (see [OG 39 A2](#)).



In round terms, the custodian trustee holds the title to all the property of the trust but is not involved in the day to day management of the trust. The powers and duties of a custodian trustee are set out in

section 4 of the Public Trustee Act 1906. This is reproduced in [OG 39 B2](#).

These powers may not be altered or added to by any provision in a charity's governing document. It is worth bearing in mind, therefore, that a "custodian trustee" whose powers are delineated in the charity's governing document will in fact be a mis-described holding trustee (see [OG 38 B1](#)). The only possible exception to this is where the powers granted by the provision in the governing document are precisely those given in s.4 of the 1906 Act, in which case that provision is superfluous.



When a custodian trustee is appointed, those who are the charity trustees within the meaning of s.177 of the 2011 Act are called managing trustees.



Only a corporation can be appointed as a custodian trustee.



There are occasions when it appears that an individual is acting as a custodian trustee, but legally this can be only when the office held by that individual has the status in law of a corporation sole. (See below for more details on who can act as a custodian trustee, also the sections on the [Official Custodian for Charities](#), and the Public Trustee.)

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2. Which corporations can act as a custodian trustee?



Rule 30 of the Public Trustee Rules 1912 (as amended) (SR&O 1912/348) specifies the corporations which may act as custodian trustees under the Public Trustee Act 1906. Rule 30 has been revised at times by six other statutory instruments (and the Coal Industry Act 1987).

The details of these statutory instruments and the amendments made by each of these statutes are given in the notes accompanying the text of this rule in Halsbury's Statutory Instruments, Vol 21 (Trusts). The up-to-date version of Rule 30 is reproduced as [OG 39 B1](#) and more explanation is available in [OG 38 B1](#).

Examples of corporations which can act as custodian trustees include:

- the Treasury Solicitor;
- limited companies;
- corporations governed by Royal Charter;
- health authorities; and
- local authorities (district councils, metropolitan borough councils, and parish councils).

Except in the case of the Treasury Solicitor, there are restrictions or limitations affecting the rights of the stated classes to act as custodian trustee. Some members of these classes are excluded generally, and, in some cases, the types of trust for which corporations can act as custodian trustee are limited. Rule 30 gives the complete list of eligible types of corporation.



In the case of charities, a body corporate can be a custodian trustee only if it is empowered to act as such under Rule 30.



Any company authorised by the Lord Chancellor to act in relation to charitable, ecclesiastical or public trusts as a trust corporation (see Rule 30(1)(d)(ii)) is entitled to act in relation to such business as a custodian trustee. It follows that the Lord Chancellor's certificate, besides conferring status as a trust corporation, entitles the corporation to act as a custodian trustee.

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3. Powers and duties of a custodian trustee



Section 4(2) of the Public Trustee Act 1906 sets out a number of powers and duties for a custodian trustee where one has been appointed. These are explained in detail in the following sections.

3.1 Holding the trust property



The custodian trustee has transferred to it, by way of vesting orders where necessary, all securities and documents of title relating to the trust property (eg share certificates and title deeds to land owned by the charity), subject to any rights of a third party (eg in the case of borrowing secured on a property, the title deeds will be held by the lender). The managing trustees have rights of free access, for study and to take copies, to the documents held by the custodian trustee.

3.2 Assisting the managing trustees



The managing trustees retain the management of the trust property and the exercise of any powers under the trust. The custodian trustee has a duty to concur in and perform all lawful acts necessary to enable the managing trustees to administer the charity efficiently. This would include sales from, and purchases to add to, the trust property, but may also include other matters. In practical terms, however, it is the managing trustees who should execute a transfer document in the name and on behalf of the custodian trustee in whom the legal title to the property is vested (Trusts of Land and Appointment of Trustees Act 1996, Sch 1, para 4(3) although this Act applies only to land).

The watchword here is "assistance". The custodian trustee can only assist the managing trustees – it cannot have any management responsibilities itself, no matter how convinced individual members of the corporate body may be that it does.



The custodian trustee should not, however, act if the matter in which it is requested to concur is a breach of trust, or involves it incurring personal liability. If the managing trustees do commit a breach of trust, the custodian trustee is not liable for any act or default on the part of the managing trustees or any of them, unless it has concurred with the breach of trust.

This inevitably means that the custodian trustee will have to exercise judgement in some investment and other cases as to whether an act involves a breach of trust or not.



All sums payable to or out of the income or capital of the trust property should be paid to or by the custodian trustee. It may, however, allow the dividends and other income derived from the trust

property to be paid to the managing trustees (or to such person, directly or by credit to their bank account, as they may direct). If this is allowed, then the responsibility for ensuring the proper application of those funds falls to the managing trustees, and the custodian trustee is not answerable for any loss or misapplication of them.



The custodian trustee, if it acts in good faith, is not liable for accepting as correct, and acting upon, any written statement by the managing trustees relating to any matter of fact upon which the title to any or all of the trust property may depend. It is also not liable for acting upon any legal advice obtained by the managing trustees independently of it.

3.3 Appointing new managing trustees



The power of appointing new managing trustees themselves, either under a provision in the charity's governing document or under Part III of the Trustee Act 1925 remains with the persons otherwise entitled to exercise it: the custodian trustee cannot participate unless the governing document of the charity gives it the right to do so. Although the custodian trustee shares with them the power of applying to the Court under Part III of the 1925 Act for the appointment of a new managing trustee it is not reckoned as a trustee in determining the number of trustees for the purposes of Part III of that Act.

3.4 Charging for their services

Custodian trustees can properly charge charities for their services, and some routinely do so. The power to charge fees is conferred by section 4(3) of the Public Trustee Act 1906; the permitted level of fees cannot be exceeded.

Charlton St Peter & Wilsford Parish Council.

Financial Year Commencing 1 April 2016.

Budget for 2016/2017

Opening Balance		£2722.20
Precept		+£1100.00
Clerks Fees		- £520.00
Clerks Fees (HMRC)		- £130.00
Transfer to Wyvern Account		-£1637.00
Balance as at 16/07/16		£1535.20
Cave Insurance brokers (Due September)	(Estimated)	-£180.00
Community First Subs		-£36.00
Closing Balance	(05/04/2017)	£1319.20

Wyvern Account (Web site costs etc) £1637.00

TCF 16/07/2016

Other notes:

- It would appear that at least some of the costs for any elections in the future may well have to be covered by us, so I suggest we keep this fact/rumour in mind when making future decisions regarding precept figures.
- This is the position as of 16/07 2016
- Estimated insurance cost to allow for increased cover.
- Wyvern account was created some years ago when the P.C. had an ambitious plan to create a chalk figure on the side of the hill facing towards Devizes. Chalk figure never came to fruition but the account remained attached to the P.C. accounts. Unless anyone objects I intend to leave it under this name.