

Appendix 5

Open Spaces Strategy 2017

Delivery models

Guide to establishing a new Parks Foundation or Parks Trust

Considerations for the establishment of a new Foundation or Trust to generate income and/or manage parks assets are laid out below.

Due diligence: For any local authority making the decision to establish an independent fundraising or management vehicle, it is essential to fully examine local context and circumstances, as well as existing assets and infrastructure before making a final decision. Some of the issues are extremely complex, particularly in relation to local authority legislation, governance and land management, and the timetable to factor these in needs to be understood from the outset.

Feasibility - Foundation: A robust feasibility process should be undertaken with each stage. In establishing a Foundation only, the processes required would include as a minimum prospect research, face-to-face consultation with stakeholders, visioning, governance recommendations, income forecasting, risks, and delivery plan undertakings.

Feasibility - Trust: In establishing a Trust a considerably more complex, costly and time-consuming process is required, including a full audit undertaken to establish the value and extent of assets being transferred, in addition to the Foundation study scope above.

Trustees and Staff: Trustees / staff / project management from inside the local authority all need to reflect the range of skills required to undertake the development of the Foundation or Trust. Trustees in particular must be recruited to cover a wide range of expertise to successfully steer and establish the priorities of the new organisation. Expertise should cover a range of areas including:

- Parks management
- Legal
- Fundraising
- Media, communications and public engagement
- Commercial

Processes: Foundations and Trusts can be legally constituted in the same way, with powers to fundraise, manage assets and establish commercial trading operations.

Application for charitable status: The following key steps need to be followed to establish a charity:-

1. Identify Trustees (usually a minimum of three).
2. Establish charitable purposes and objects (vision, beneficiaries and anticipated outcomes).
3. Confirm charitable structures (Charitable Company or Charitable Trust*).
4. Establish governing documents and procedures.
5. Register company and/or charity as appropriate.
6. Establish bank account and other financial systems.

* The structure chosen would vary depending on the model being considered; a **charitable trust** - where a group of people ('trustees') manages assets such as money, investments, land or buildings, or a **charitable company** where Trustee Directors hold no, or limited liabilities. Both models are suitable for a Foundation and the limited liability Charitable Company would be used for a Park Trust.

In addition to charitable status, legal and decision-making structures, lease arrangements, HR requirements and TUPE transfer of staff, business planning, and stakeholder consultations would all need to be undertaken when developing the Park Trust option.

Timescales: Charitable Foundation:

It should be anticipated that the full process of appointing Trustees and applying for charitable status would take up to a year from the start of the process.

Other factors: Negotiations between a new Foundation and the local authority will also influence timescales in areas such as agreeing mutually-agreed funding priorities, how ongoing management and maintenance of new equipment or infrastructure will be funded and delivered, and communications planning.

The complexities in establishing a Trust are far wider, and timescales more difficult to ascertain. This would be very much influenced by the extent of asset and management transfer, staffing and TUPE, financial and endowment considerations etc.
