humanity in motion

Date

1st July 2007

DEED OF TRUST

Relating to charitable funds held by the
Rotary Club of

Winslow

THIS TRUST DEED is made the First day of July

Two thousand and Seven

By	Dr Paul Gillett	(President)
	Mary Taylor	(Secretary)
	David Sibthorp	(Treasurer)

(herein after called "the original Trustees")

WHEREAS:

(1) The Original Trustees are respectively the President Secretary and Treasurer for the time being of the Rotary Club of Winslow

("the Club")

(2) The Club have resolved to create a trust fund by the transfer to it of the monies specified in the Schedule hereto (hereinafter called "the Trust Fund") and to appoint the Original Trustees the Trustees thereof

NOW THIS DEED WITNESSETH as follows -

1. The Trustees hereby declare that the Trustees shall hold and apply the Trust Fund and all other monies which may from time to time be received by the Trustees (whether such monies shall arise from donations bequests deeds of covenant or from any other source) ad also the investments for the time being gang representing the same (all of which are hereinafter included in the expression "the Trust Fund") **UPON TRUST** to apply both the capital and income thereof is or for the relief of the poor and needy or such other charitable purposes as the Club shall In duly constituted meeting from time to time direct

2. **ANY** monies not needed for immediate working purposes shall be invested as authorised by law

3. **THE** Trustees shall open a bank account or bank accounts in the name of the Trust Fund at such bank as they may from time to time decide. All cheques shall be signed by any two of the Trustees for the time being of the Trust Fund

4. **THE** Trustees may assume without further enquiry that any written direction signed by the Club President or in his absence his deputy stating it to be a decision or direction of this Club in a duly constituted meeting was properly given at such meeting

5. **IN** the event of the Club being dissolved or of the Club resolving to discontinue the Trust Fund the Trustees shall hold the Trust Fund upon trust to transfer the same to such similar charitable institutions and societies or apply it to or for such similar charitable objects as the Club shall in duly constituted meeting direct failing which for such charitable purposes as the Trustees determine

6. (i) **THE** Club President (provided he has obtained the authorisation of the members in a duly constituted meeting on each occasion in relation to the particular candidate for Trusteeship) may by writing appoint a new Trustee or new Trustees hereof but so that:- (a) all Trustees must be members of the Club (b) unless the members decide otherwise the Trustees shall normally be the President Secretary and Treasurer of the Club ex-officio (c) no Trustee may act unless he has signed a declaration of willingness is do so in the minute book of the Trustees

(ii) **ANY** Trustee who ceases to be a member of the Club shall cease to be a Trustee

(iii) **THE** Club may at any time by resolution remove a Trustee from me Trusteeship of this deed for any reason which may appear to the Club to be good and sufficient and without assigning any reason provided that if the Trustee objects he shall have the opportunity of presenting his case at a duly authorised meeting of the Club. When removed the Trustee shall for the purpose of the exercise of the statutory power of appointing new Trustees be treated as if he were dead

(iv) **ANY** deed executed by the persons in whom the statutory power is vested shall in favour of a purchaser or other person acquiring any Interest for money or money's worth be deemed to have been executed in accordance with the resolution of the Club and shall be taken to be valid in all respects

7. **IN** this deed where the context so requires or admits me expression “the Trustees” shall include the Trustees or Trustee for the rime being hereof and nouns and pronouns of the masculine gender shall include the feminine

IN WITNESS whereof the said parties to this Deed have hereunto set their hands the day and year first above written

THE SCHEDULE above referred to
(This schedule should specify either a sum of money or precise particulars of the account(s) in which the monies are held)

The funds held In the Charity Funds Account as at the date hereof consisting of £5,445.51,

SIGNED AND DELIVERED as a deed }
By the said }
In the presence of }

SIGNED AND DELIVERED as a deed }
By the said }
In the presence of }

SIGNED AND DELIVERED as a deed }
By the said }
In the presence of }

ROTARY CLUBS AND THE CHARITIES ACT 2006

1. **Introduction**
2. **Charity Commissioners – Accountability**
3. **Registration of a Charity**
4. **Effect of the Act on Trustees**
5. **Permanent Endowment**
6. **Public Collections/Fundraising**
7. **Accounts, Audit & Independent Examination**
8. **Scotland and Ireland**
9. **Conclusions**

1. Introduction

After a tortuous two year passage through parliament and nearly five years after it was first proposed, the Charities Act 2006 finally reached the statute book in November 2006. The purpose of this note is to give a brief guide to the changes and in particular how it affects the average Rotary club in these islands.

Sections of the Act are to be implemented over a couple of years and so it is important that these notes should be reviewed in the light of announcements by the government's 'Office of the Third Sector'. (www.cabinetoffice.gov.uk/third_sector/law_and_regulation)

2. Charity Commissioners – Accountability

A number of sections in the new Act relate to the way the Charity Commissioners operate together with complaints procedure. It is unlikely that they will affect the average Rotary club trust.

3. Registration

Changes have been made to the definition of a charitable purpose and public benefit with a list of 13 defined charitable purposes. Registrations limits which were income above £1,000 are increased to £5,000. In other words a charity with income below the £5,000 does not need to register with the Charity Commissioners. This new limit was expected to be brought in 2008 but was introduced early with effect from 23 April 2007. For the average club this will make no difference but does mean that clubs with income below this limit need not register and the current practice of the Charity Commission means that it will not be able to register with them. They should however still complete a charity trust deed and appoint Trustees. In order to obtain tax relief they should still register with the Charities division of HM Revenue and Customs. Clubs should still review the new definitions of charitable purposes if trying to setup a non standard Rotary charity.

4. Trustees

A number of changes have been made to the powers of Trustees. These notes can only be brief and to act as a guide for further research. **Trustees should not automatically assume that they apply to them without further inquiry** as different rules apply to small and large charities as well as to unincorporated and incorporated charities. Similarly not all are implemented at the time of writing. Some of the matters that have changed are:

i) A charity can now pay indemnity insurance on behalf of trustees

ii) In certain circumstances Trustees can be paid

iii) Trustees can mortgage the Charity's land subject to receiving expert advice without the need to obtain the Commissioners' approval.

iv) In certain circumstances Trustees can spend a permanent endowment

v) In certain circumstances Trustees of an unincorporated charity can transfer the funds of the charity to another charity or to merge with a similar charity.

vi) Trustees will be given powers (expected to be implemented in early 2008) to change the charities purpose. This will only have limited effect to charities in England and Wales and most Rotary charities have widely drawn purposes and Trustees are unlikely to want to change them. If they do then a resolution of the Trustees is required after agreement that the change is the best interests of the Charity The resolution is passed to the Charity Commissioners for comment or agreement. This change is expected in 2008.

5. Permanent Endowment

Permanent endowment is property or assets held by the Charity on the basis that the Trustees can spend the income but not the capital. There is to be some relaxation of these rules in very limited circumstances. These new rules are expected to be implemented in 2008.

6. Public Collections & Fundraising

There have been considerable changes made to the regulation of public charitable collections (including appeals for money, goods such as jumble, books, stamps etc as well as the sale of raffle tickets) which are expected to come into force sometime during or after 2009. There is to be a period of consultation before the new rules are to be applied so it is not clear at this stage to what extent it will affect the normal work of a Rotary club or what exemptions can be obtained for Rotary in general and clubs in particular. The Act already gives some exemptions such as unattended collection boxes or bags are not classified as public collections..

In essence there is to be a two tier 'licensing' system. There is to be a 'public collections certificate' which all promoters must obtain from The Charity Commissioners and can last up to five years. A permit from or notification to the local authority will be required depending on the type of collection. It is unclear how the Commission will deal with charities with many branches when it comes to applying for and the issue of the certificates.

There is no doubt that all charities have been encouraged to join the Institute of fundraising and to sign up to their code of practice. There is a cost to this and RIBI have been and will continue to see if a 'blanket' membership can be achieved rather than for each club to be registered. There are extensive notes on 'best practice' on their web site –
http://www.institute-of-fundraising.org.uk/bestpractice/thecodes/codesoffundraisingpractice/
Many of these codes are of use to Rotary clubs and will repay reading where appropriate as they give ready-made procedures and answers to common questions and can be adapted to cover many of the activities carried out by Rotary clubs.

These notes are not intended to cover all the rules relating to Gift Aid but you should be aware that HMRC have issued extensive guidelines covering events and even donated goods which maybe useful. Again it is a long website address –
http://www.hmrc.gov.uk/charities/guidance-notes/chapter3/sectionf.htm#gg

7. Accounts, Audit & Independent Examination

The rules relating to the limits for these items were some of the first sections of the Act to be implemented – in Feb 2007. The following table sets out the main obligations.

a) Unincorporated Charity:

Gross Income	Below £10,000	£10,001 - £100,000	£100,001 - £500,000	Over £500,001
Obligation to keep accurate records	Yes	Yes	Yes	Yes
Full Accrual Accounts complying with SORP 2005	At Trustees election	At Trustees election	Yes	Yes
Receipts & Payments Accounts & Statement of Assets & Liabilities	At Trustees election	At Trustees election	No	No
Audit/Independent Examination	No (unless required by governing document)	Independent Examination	Full Audit if Assets exceed £2.8m or Ind Examination by Qualified Examiner	Full Audit
Annual Report & Annual Return to be filed with the Commission	Only if requested by Commission	Yes – Report may be simplified	Yes – Report may be simplified if income below £250,000	Yes
Obligation to file Accounts with Commission	No – unless requested	Yes	Yes	Yes

b) Incorporated Charity

Gross Income	Below £10,000	£10,001 - £90,000	£90,001 - £500,000	Over £500,001
Comply with the Companies Act	Yes	Yes	Yes	Yes
Full Accrual Accounts complying with SORP 2005	Yes	Yes	Yes	Yes
Receipts & Payments Accounts & Statement of Assets & Liabilities	No	No	No	No
Audit/Independent Examination	No (unless required by governing document)	No (unless required by governing document)	Full Audit if Assets exceed £2.8m or Accountants report Examiner	Full Audit
Annual Report & Annual Return to be filed with the Commission	Only if requested by Commission	Yes	Yes	Yes
Obligation to file Accounts with Commission	No – unless requested	Yes	Yes	Yes

c) Charitable Incorporated Organisation

We need to wait until the full details of this new type of company are made available but the rules are expected to follow the incorporated obligations.

8. Scotland and Ireland

By far the majority of the Charities Act 2006 applies only to charities in England and Wales and these notes are primarily aimed at Rotary clubs with Trust funds in those countries. As with most similar Acts the regulations applying to Scotland and Northern Ireland do or are expected to follow closely the Act as it applies to England and Wales.

a) Scotland

Scottish charities are regulated by the Charities and Trustee Investment (Scotland) Act 2005 which established the Scottish Charity Regulator. The current RIBI notes on forming a trust apply in Scotland as the Regulator has indicated his acceptance of the Trust Deed format. All charities registered with the Scottish Regulator must submit an annual return and a copy of their accounts. Charities with an income of more than £25,000 must also complete a monitoring return.

Public collections in Scotland by any charity, no matter where registered, are governed by slightly different regulations to those in England and Wales. It is possible to apply for an exemption from the need to get permission for each collection. It is expected that new regulations will bring non cash collections into line with those applying to cash collections

b) Northern Ireland

Draft regulations are before Parliament to setup a regulator to be known as Northern Ireland Charity Commission. It is expected that street collections will be subject to similar rules as in England and Wales. These have been delayed while the questions of devolved powers have been settled.

c) Republic of Ireland

There is currently no equivalent of the Charities Act 2006 as in England and Wales. There was a Bill put before parliament prior to the election this year but ran out of time and was one of the pieces of legislation that was a casualty of the election process. It is anticipated that the Bill will follow the main regulation in England and Wales as meeting have taken place between officials of the various countries to ensure a common approach to charity regulation.

9. Conclusions

The legislation and regulations covering Charities in the various countries covered by RIBI seem to be following the lead set by the Charities Act 2006 of England and Wales. While some of the sections apply to specific requirements and do no have an exact equivalent in other countries there does seem to be a common theme in all the various regulations. Much of the law and regulations are changing as sections of the Act in England and Wales come into force and other countries bring in or amend their regulations and it is important that we all review the regulations and are aware of the changes as they come into force.

In addition to the Charity Commission website in the UK – (http://www.charity-commission.gov.uk/) it is worth looking at the code of practice set out by the Institute of Fundraisers which give a great deal of practical advice regarding charity collections and procedures (http://www.institute-of-fundraising.org.uk/bestpractice/). Although Rotary is not yet a member of this organisation, it is important that Rotary clubs use 'best practice' when dealing with money collected from the general public.

As mentioned above it is important that members charged with responsibility for club or District charities keep an eye on the changing regulations

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