

PUBLIC NOTICE – THE FREE GARDENS CHARITY – GREAT SOMERFORD

Under S. 121, Charities Act 2011, notice is given that the FREE GARDENS CHARITY proposes to become a Charitable Incorporated Organisation (CIO).

This proposed change will permit Trustees of the Free Gardens Charity to broaden the Trustee group and allow greater input from residents and plot holders, and to bring the charity in line with the governance standards and ways of working expected by the Charity Commission.

Members of the Great Somerford community are invited to inspect the following proposal and submit comments or representations to the Chair of the Trustees by Friday, 14th April 2023. The email address for the Chair is merielgriffiths.gspc@btinternet.com

To further aid the community in any comments or representations, a public meeting with the Charity Trustees will be held in the Great Somerford Community Room (attached to the Walter Powell School) at 6:30pm on the 5th April 2023.

The information below is also available on the Parish Council website and will be displayed on the parish noticeboard until the end of the consultation period.
<https://www.greatsomerfordparishcouncil.co.uk/free-gardens/>

Background

The Charity Commission is now recommending unincorporated charities, such as the current Free Gardens charity, move from their ‘unincorporated’ status as independent charities to become ‘Charitable Incorporated Organisations’ (CIO). As a CIO, the day-to-day workings of the Free Gardens would remain unchanged, but the move to being an “incorporated charity” would enable a number of changes to the governance of the Free Gardens charity that the current trustees believe to be in the interest of the charity and the community that it serves. Some of those benefits could include:

1. It would enable non-Parish Councillors to become trustees of the charity – the trustees propose a maximum of three councillor trustees with the other trusteeships being open to allotment holders and local residents (currently, all nine Parish Councillors are the Trustees of the Free Gardens unincorporated charity;
2. By limiting the number of parish councillor trustees to three, it will remove conflicts of interest that can arise in Parish Council meetings, when matters relating to the Free Gardens charity are discussed;
3. It will allow the Free Gardens CIO to request direct control of the 6 acres of land that form the Free Gardens, currently controlled by Great Somerford Parish Council as “custodian trustee”. This will enable the trustees to seek further protection in law for the preservation of the land – which are the oldest allotments in England - for the community;
4. It would enable the adoption of new charitable objects/constitution that align with current charity laws, regulations, and best practice.

Work done to date

When considering the application process for CIO status, the first area for review was that of the Charitable Objects/Constitution. The existing Constitution of the Free Gardens (its Governing Document) is based on the original documents from 1896, with an update in 1960. As part of the application to becoming a CIO, it is compulsory to provide an updated constitution for the new CIO that reflect current practices and governance standards; with this in mind, Trustees and volunteers have used a Charities Commission template to develop a constitution in line with Charity Commission requirements. A copy of the Free Gardens CIO constitution can be seen at this website address <https://www.greatsomerfordparishcouncil.co.uk/free-gardens/> or by application to the Chair of Trustees at the email address above.

This document has had the approval of the Charity Commission and can be adopted by the new CIO, if the existing Free Gardens Charity trustees decide to transfer the assets to the CIO. That decision by trustees will be made after the 14th April 2023, following the public consultation.

The application process to become a CIO

The present unincorporated charity proposes to transfer the assets of the Free Gardens Charity to the CIO. The old, unincorporated charity must then be closed down and a 'vesting' declaration (to vest all assets to the CIO) will be made to the Charity Commission with the help of a solicitor. Additionally, a request will be made to the Charity Commission to allow the custodian trustee of the land (the Parish Council) to transfer the land to the CIO; this may be subject to a separate notice. A solicitor has been appointed to deal with the full vesting procedure. It should be noted that due to the restrictions on the use of the land, it has no "commercial" value as such.

What Happens Next?

We are now entering a Consultation Period that includes the public meeting to be held in the Community Room on the 5th of April 2023. At the end of the Consultation Period (14th April 2023), any concerns raised by members of the community will be reviewed by the current Trustees and a response made to each enquiry. When these are answered and recorded, an application will be made to the Charities Commission for permission to transfer the charity to the Free Gardens CIO under Section 105 of the Charities Act 2011. If that is successful, interested parties will be asked to submit their application to join the three founder parish councillor trustees to become trustees of the CIO, up to the permitted limit of trustee numbers.

10th February 2023