



Protecting Recreational Land

Contents

Introduction	3
Reasons for protection	4
Flexibility	5
Benefits	6
The protection process	7



Disclaimer

Fields in Trust (we) hope that this document proves helpful to you. It is intended to cater for all needs, whether you don't know where to start or require some more specialist information.

While we have endeavoured to ensure that the information in this document is correct, it has been written as a general guide to 'Protecting Recreational Land'. It is not intended to provide specific commercial, legal or financial advice, or to cover every eventuality and is not a substitute for independent specialist advice.

This document is provided "as is", without any conditions, warranties or other terms of any kind. Accordingly, to the maximum extent permitted by law, we provide you with this document on the basis that we exclude all representations, warranties, conditions and other terms (including, without limitation, any conditions implied by law which, but for this legal notice, might have effect in relation to the toolkit).

We, any other party (whether or not involved in creating, producing, maintaining or delivering the document), and any of our group companies and the officers, directors, employees, shareholders or agents of any of them, exclude all liability and responsibility for any amount or kind of loss or damage that may result to you or a third party (including without limitation, any direct, indirect, punitive or consequential loss or damages, or any loss of income, profits, goodwill, data, contracts, use of money, or loss or damages arising from or connected in any way to business interruption, and whether in tort (including without limitation negligence), contract or otherwise) in connection with this document.

Nothing in this legal notice shall exclude or limit our liability for death or personal injury caused by negligence, fraud, misrepresentation as to a fundamental matter or any other liability which cannot be excluded or limited under applicable law.

Please view our Terms and Conditions at: www.fit-fields-toolkit.org/terms.aspx for further information.

Introduction



We use charity and contract law to establish binding agreements and commitments that protect valuable public recreation land for the long term but in a flexible way.

Fields in Trust has been in the business of providing legal protection for playing fields, play space, recreation grounds and other open spaces since formation as the National Playing Fields Association in 1925.

The protection we seek to put in place is long term, which we define as in perpetuity for freehold property or at least 99 years for leasehold property.

At the time of writing this guide, Fields in Trust protects around 2,800 sites covering 27,000 acres throughout the United Kingdom, including 471 King George V Fields and 1,400 Queen Elizabeth II Fields.

Our protection goes beyond the town and country planning system. Planning control can be very good for protecting sites but has significant weaknesses. National and local planning policies are subject to change. Green belt boundaries can be redefined. Pressure for development of urban open space, or open space on the urban fringe or in the countryside has never been greater. We therefore use charity and contract law to establish binding agreements and commitments that protect valuable public recreation land for the long term but in a flexible way.

In this section, we set out the main reasons and rationale why owners and users of recreation land should opt for Fields in Trust protection, the flexibility that is in-built to our form of protection, some of the additional benefits that come with this protection and, lastly, the protection process.



Reasons for protection



Playing fields and open space do still come under threat of development, and always will. However, protecting these sites is not an end in itself. The important thing is to protect open space, where it is needed, well used and valued by the local community – residents, workers, visitors, local employers and schools alike.

The key reason for protection is to ensure that everyone has access to a space – close to where they live, study or work – for healthy, recreational activity, including sport and play. More specifically, protection is important to ensure:

- ✓ Sites are available for use today and for future generations. Playing fields lost to development never come back into recreational use. Access for future generations to recreation space depends on this generation protecting it now
- ✓ Accessible for the whole community on an inclusive basis
- ✓ Funders, owners and managers are reassured that investment in improvements is viable and secure.

To ensure their survival, we firmly believe that long-term protection through contractual and/or charitable arrangements is the best way of safeguarding these much needed and valued assets.

Flexibility



While Fields in Trust holds the freehold of a small number of sites on behalf of local communities, our preferred method is for the ownership and management to remain in local hands.

That's not to say that every blade of grass should always remain. Opportunities will arise when disposal of part or the whole of a site for development can result in significant funding which can be reinvested in new or enhanced facilities, a process sometimes described as 'betterment'.

Charity law requires trustees to act in the best interests of their charity, which will require consideration of betterment opportunities on occasion. Local authorities have a duty to ensure land is well used and not surplus to requirements. Like any other organisation, local authorities also need to balance their budgets, look broadly at the funding needs of all of their services and decide on priorities. At Fields in Trust we recognize these pressures on recreational landowners and managers. Under our protection, there is flexibility to allow for disposals leading to betterment where we judge this to be of recreational benefit to the local community. Indeed, we have been able to use this flexibility to leverage better facilities for communities on numerous occasions.

Our protection ensures that the land can be used for outdoor sport, recreation and play. Ancillary facilities such as pavilions and changing rooms, car parks and equipment sheds can be added or removed at the landowner's behest at any time. Larger scale indoor facilities, such as leisure centres or village halls, can also be included within our form of protection as appropriate.

A variety of means is available for protection. While Fields in Trust holds the freehold of a small number of sites on behalf of local communities, our preferred method is for the ownership and management to remain in local hands, and for Fields in Trust's role to be custodial and advisory. All this is reflected by way of a legal agreement called a Deed of Dedication.

The Deed of Dedication

- ✓ Be charitable or non-charitable
- ✓ Apply to freehold property or leasehold property of a term of at least 99 years remaining
- ✓ Cover any form of outdoor sport, recreation or play and indoor facilities as required
- ✓ Allow for recreational purposes and include as appropriate other community uses, such as education, culture and heritage.



Benefits

As well as the reasons for protection set out above, there are a number of tangible additional benefits for the owners and managers of the site themselves as well as beneficial outcomes for communities.



Links to related toolkit docs.

Establishing the right
sort of organisation

Application Writing
and Sources of Grant

For landowners and site managers

Advice and expertise – being part of the Fields in Trust family of protected fields, provides access to the expertise and advice of our staff team on planning matters, technical issues and funding.

Cost-savings – charitable fields (those protected in perpetuity) will benefit from tax relief, including reduced Council Tax.

Fundraising & Funding – fields run as charities are able to access funds that non-charities cannot (e.g. through some trusts and foundations). Fields in Trust often has grant funding available, but only to its protected fields. Over the years we have provided millions of pounds of improvements, in conjunction with bodies such as the Carnegie United Kingdom Trust, the King George's Fields Foundation, the London Marathon Charitable Trust and the Landfill Tax Distributor, SITA.



For communities

Social – playing fields are one of the few free places where friends, families, teams and communities can come together, socialize and relax. Good quality facilities provide children with a much-needed place to go out and play, which is fundamental to their development.

Health – convenient access to outdoor space is vital if we want to give everyone the chance to go outside and exercise to improve or maintain their health.

Environmental – green spaces are vital to our resilience to climate change and important to bio-diversity and wildlife habitats.

Economic – communities with well maintained green space are more attractive to investors and businesses and homeowners.

The Process



The process for a recreational landowner to protect a site under a Fields in Trust Deed of Dedication is quite straightforward and, in the simplest cases, can be completed in a matter of a few weeks with minimal time and expense.

Our staff team at Fields in Trust usually undertakes most of the necessary work to complete the protection. Typically, this involves:

- 1 An initial telephone conversation or email exchange with the landowner or leaseholder directing them to our Protection Application Pack and Application Form downloadable from the webpage: www.fieldsintrust.org/Safeguard.aspx
 - 2 We will send the landowner an email acknowledging receipt of an Application within three working days and raise any queries arising from the application.
 - 3 If the application is eligible, we will arrange to visit the site and meet with the landowner and colleagues. If it is not, we will explain the reasons why in writing.
 - 4 The site visit and meeting will help us to understand the site's recreational value and current legal status, including review of the site boundaries and relevant title plans and documents provided by the landowner as part of the Application.
 - 5 A member of our legal officer team will then liaise with the landowner (and/or their legal adviser) to tailor the appropriate Deed of Dedication template (charitable or non-charitable) to suit the particular circumstances for the site.
 - 6 Formal approval of the Deed and signing by the landowner and our trustees.
 - 7 Registration by the landowner of the deed at Land Registry.
- ✓ Congratulations! Your Field is protected in perpetuity.



The decision is an important one, for once protection is in place it will either be in perpetuity or for the period of a very long lease. The decision should be taken by the organisation's governing board.



More detailed advice can be found on the following web sites:

www.fieldsintrust.org/Safeguard.aspx

Acknowledgements

Fields in Trust wish to acknowledge that the information above has been prepared with the help of information supplied on the above web sites.

