

To: Kenneth Dibble (for Commissioner Review)
cc: David Locke
James Kilby
Neil Robertson
Andrew Wherrett
Harvey Grenville

Date: 2nd March 2007

For Decision

Title: DECISION REVIEW: ALEXANDRA PALACE

Issue: Decision on whether to make an Order to authorise the disposal of Alexandra Palace by lease to a Development Company (Firoka) following a public notice exercise.

Recommended action:

That the Commissioner reviewing the decision decides:

- (a) if a decision can be made now, or if additional information is required;
- (b) whether the Commission should make the Order on the terms proposed.

Contacts:

Kenneth Dibble, Executive Director, Legal and Charity Services
020 7674 2375
kenneth.dibble@charitycommission.gsi.gov.uk

Victoria Crandon, Case Officer
01823 345135
victoria.crandon@charitycommission.gsi.gov.uk

A BACKGROUND

A.1 Alexandra Palace

Alexandra Park and Palace is presently used as an exhibition centre, including an ice rink and bar and is set in 196 acres of grounds in the London Borough of Haringey. The charity is governed by a number of Acts of Parliament and the Commission's Order of 2004. The trustee, Haringey Council, has provided evidence that for many years, the charity has operated at a substantial loss, which the Council has met out of public funds. The Council, as local authority, is not willing to continue to subsidise this loss and there are also unresolved questions over their power to do so. The trustee has looked into various options for the way forward for the charity and, after public consultation and a tender process, has decided to lease Alexandra Palace and its immediate hard standing surround to Firoka (a development company).

The lease requires the Commission's consent (under The Charities (Alexandra Park and Palace) Order 2004 and section 26 Charities Act 1993). During a Parliamentary debate in 2004, Fiona McTaggart MP announced that she had received an undertaking from the Commission to publish the draft of any Order that it might make authorising a lease and to invite and consider any representations that it may receive.

A.2 The 2004 Order and Parliamentary Debate

The Alexandra Park and Palace Acts and Order 1900-2004 (the Acts) provided at Annex A, do not go so far as to specify a charitable purpose which the trustee is obliged to pursue in the way that a modern trust deed might. However, based on the Acts as they stood in 1967, the High Court concluded that the Alexandra Park and Palace Act 1900 established a trust for exclusively charitable purposes. Its provisions from which the Court derived its objects are set out in sections 17 and 26. The Court concluded that the *'park and palace can be employed in accordance with the purposes specified in section 17 for the recreation of the public.'* A copy of the judgement of Pennycuik J is attached at Annex B.

Our register summarises the charitable purposes *'To hold and manage Alexandra Palace and Park as a place of public recreation and for other public purposes'* although with reference to the 1967 judgement of the High Court, this is not a definitive statement of the objects.

Prior to making the 2004 scheme, the matter was considered by the Standing Committee on Delegated Legislation. An extract from the Hansard report is attached at Annex C. A number of representations were made by the presenting minister on behalf of the Commission.

The minister commented at column 20 that the Scheme does not permit the palace to be sold for development and that the Scheme does not amend the charity's purposes. There may be some tension between this representation and our interpretation of the Scheme as permitting a development lease so the physical palace will be used for commercial purposes but its rent for charitable purposes.

In the second complete paragraph of column 20, the minister represents the sorts of considerations which will be addressed in deciding whether to make the Order. The lease contains provisions relating to all the topics covered except change of use and the role of the advisory committee. Change of use is not contemplated by the lease and so does not arise. The advisory committee has a role set out in the Alexandra Park and Palace Act 1985, schedule 2. Its role is advisory to the trustee, not a commercial tenant and it was not considered appropriate to suggest a role for the advisory committee in the lease. Our draft Order however gives directions relating to the trustee's review of the developer's compliance with the obligations under the lease. These are intended to publicly record the trustee's obligations in this regard and to encourage the participation of the advisory committee in that process.

At column 21, the minister conveyed the Commission's undertaking to publish a draft of any Order permitting a specific lease for the purposes of taking representations and considering them.

A.3 The proposal to dispose of the property

The trustee made a case to the Commission to demonstrate that the disposal was in the best interests of the charity. We agreed to authorise the transaction by Order under section 26 of the Charities Act 1993 and The Charities (Alexandra Park and Palace) Order, subject to the analysis of representations made following a period of public notice.

The lease (at annex D) is within the powers provided in the 2004 Order. The ancillary uses may only be implemented if they are consistent with the purposes of the Alexandra Park Acts. The trustee has concluded that the 125 year lease is for the best rent reasonably obtainable as required by the Scheme of 2004. The lease proposed is one authorised by the Scheme of 2004.

The 2004 Scheme made by statutory instrument under section 17 of the Charities Act 1993 makes two key provisos in respect of the terms of the lease to be made under it. Taking them in the order in which they are easiest to understand rather than the order in which they appear:

First the use permitted by the lease must not be inconsistent with the purposes of the charity contained in the Acts;

Second, the rent must be the best that is reasonably obtainable regard being had to the purpose of the Acts.

The Scheme provided that any question as to the construction of the Scheme or as to the regularity of acts about to be done under the Scheme may be determined by the Commission.

It was considered that the 2004 Scheme permitted a lease:

- to a person who would commercially exploit the premises;
- that the user of the premises must be restricted to uses to which the premises might otherwise have been put by the trustee in the different context of pursuing the objects;
- that the use of the premises must be consistent with the use of the park remaining in the trustee's possession in furtherance of the objects by the trustee; and
- that the rent must be the best rent reasonably obtainable and consistent with the commercial exploitation of the premises, but revised to take account of the limited uses to which the premises may be put.

In considering whether the lease met these requirements, the user provisions, nuisance provisions and rent provisions were particularly important.

The user provisions in clause 3.11 of the lease specify various uses and ancillary uses for the premises. The user provision does however make it clear that a use which is inconsistent with the Acts is not permitted. The user clause has been amended to ensure the precedence of that requirement was clear.

Clause 3.12 provides the trustees with some rights which can be used to protect the use of the remaining park. These rights enable the trustees to prevent use of the premises not in accordance with the provisions of the Acts.

Clause 3.1 provides for the payment of premiums and rents. Schedule 2 further explains the profit rent. These provisions implement the commercial terms previously agreed and commented on by King Sturge in their report of 1 May 2006. King Sturge consider that the premises in their current state would only attract a peppercorn rent. They confirm their view that the disposition as

contemplated represented the best disposition for the charity in accordance with the Charities Act 1993. It was later confirmed that the rent represented the best rent reasonably obtainable regard being had to the requirement for use to be consistent with the purpose of the Acts. Please see annex E in this regard.

B ANALYSIS

B.1 The public notice process

Public notice was given for a period of 5 weeks, which ended on 5th January 2007. Publication was in The Times newspaper and 6 local London papers. Notices were also placed in the Park and Palace and in local libraries. We produced a Q&A sheet to explain the proposals. 328 representations were received: 4 were clearly in favour and 324 expressed at least some concern.

The process has given the opportunity for those with concerns about the proposals to give their point of view. It should be noted that those who had concerns about a particular aspect of the proposals did not necessarily express overall support or opposition to the granting of the lease. We have produced a Summary of Representations paper. This paper does not provide answers, comment or evidence to verify any of the representations received.

B.2 Analysis of representations

The Summary of Representations is attached at annex F.

B.3 Further information supplied

The trustee has had sight of the Summary of Representations paper which was discussed at their trustee meeting on 20th January 2007. When sending this paper to the trustee we asked them to consider specifically 4 main issues:

- The CUFOS building (The Old Station, a registered charity, and community centre);
- The original TV studios and Broadcast heritage museum;
- The Willis Organ and theatre; and
- The proposals for monitoring the covenants in the lease.

The two letters in response from the trustee, both dated 21st February 2007, are attached at annex G.

The trustee has considered in detail the representations. They have provided detailed comment on the representations. They do not feel that the representations provide any new evidence for the trustee to take any action it hasn't already taken, except for the issue of the CUFOS building. It has agreed, provided the developer unconditionally agrees, to vary the terms of the lease of the old station to bring it within the protection of part II of the Landlord and Tenant Act 1954. This would provide the tenant charity with some limited right to protection and renewal when the lease term expires in March 2011. The developer has agreed to this on the basis that the Commission issues its immediate consent.

B.4 The decision making process

We are making the Order under the power given in the Parliamentary scheme and under section 26. Strictly speaking, the procedure laid down in OG1 for considering representations about Schemes doesn't apply. As this is a draft Order, the decision review procedure doesn't apply either. As we

have undertaken to consider representations, the case is analogous to the making of a section 16 Scheme and in the absence of any policy, we have adopted the same procedure. When considering the criteria for conducting a Commissioner review, consideration is given to novel or controversial issues. The reviewing of the representations by a Commissioner will obviate any further review.

B.5 Risk assessment

<i>Risk</i>	<i>Likelihood</i>	<i>Impact</i>	<i>Mitigation</i>
Reputational risk	Medium	1 Loss of confidence in the Commission as an effective regulator. 2 The Commission is seen to favour a larger charity (AP) over a smaller charity (CUFOS).	1 We have gone through a public notice exercise and independent review process. 2 We have indications that our actions have led to a change in approach to CUFOS in the proposals.
Managing expectations	Medium	We could become involved in correspondence on matters outside our remit.	We have invoked a clear representations process.
Risk of developer pulling out	Medium	Impact on the future for the charity.	This case has been treated as a priority case (ie outside the normal service delivery protocols).

B.6 Communication/Handling issues

Our communication strategy to the charity will involve informing the trustee of the outcome of the review and reasoning behind this.

A database has been constructed of all those who have provided representations or otherwise expressed an interest in this matter. We will write to each of these people with the outcome of the review and reasoning.

There has been local and national press interest on this case. We will liaise with the Press Office over an agreed press line.

C CONCLUSION

The Commissioner is asked to consider the representations and decide if the Commission is in the position to make the Order on the terms proposed.

Memorandum

To: Commissioners (Members of the Commission) **cc:** Andrew Hind
From: Kenneth Dibble **Room:** 5th Floor Nick Allaway
Tel: London 2375 **Fax:** 2308 Rosie Chapman
Date: 6 March 2007 Simon Carney

Subject: Alexandra Park and Palace (reg. no. 281991)

Delegation to nominated Commissioners (Members) to decide whether to make an Order to authorise the granting of a long lease of Alexandra Palace.

Issue:

The delegation to nominated Commissioners of the decision whether to make an Order to authorise the granting of a long lease of Alexandra Palace and its immediate hardstanding surround to a Development Company following a public notice exercise.

Recommendation:

That you, as members of the Commission, delegate the carrying out of the decision to nominate Lindsay Driscoll and John Williams with full powers to make the decision on behalf of the Commission.

Timing:

Urgent and critical. The Development Company wishes for a response before 15th March. They are concerned about the financial impact of any delay. It is unclear how long the Development Company will wait for the outcome of our decision, with one of the risks being that they will pull out.

Background:

Alexandra Park and Palace has operated at a substantial loss for many years. Haringey Council, as trustee, has subsidised that loss. It is not willing to continue to do this. The trustee has looked into various options over a lengthy period of time and has decided to lease the Palace and its immediate hard standing surround to Firoka (a development company). The lease requires the Commission's consent (under The Charities (Alexandra Park and Palace) Order 2004 and section 26 of the Charities Act 1993).

During a Parliamentary debate on the 2004 Order, Fiona McTaggart MP announced that she had received an undertaking from the Commission to publish the draft of any Order that it might make authorising a lease and to invite and consider any representations that it may receive. We published a draft Order in December 2006. The period for making representations expired on 5th January 2006. We received a total of 328 representations.

Issues:

The lease appears to be within the powers provided by the 2004 Order. The trustee has made a case to show that the disposal is in the best interests of the charity. An analysis has been completed of the representations and the trustee has had the opportunity to comment on these representations. We now need to decide if we are in a position to seal the Order.

Four main issues came out of the representation process. The trustee has considered these in detail and provided a lengthy response. Following the concerns raised in the representations, the trustee has agreed to vary the terms of the lease of part of Alexandra Palace, which it leases to a community centre charity, so that they have some security of tenure once their present lease expires.

Please see the minute from Victoria Crandon to me dated 2nd March 2007, which is attached for a detailed analysis of the issues.

The Decision Making Process:

We are making the Order under the power given in the Parliamentary scheme and under section 26 of the 1993 Act. Strictly speaking, the procedure laid down in OG1 for considering representations about Schemes do not apply. As this is a draft Order, the decision review procedure do not apply either.

As we have undertaken to consider representations, the case is analogous to the making of a section 16 Scheme and in the absence of any published or settled policy, we have adopted the same procedure. When considering the criteria for conducting a Commissioner review, consideration is given to novel or controversial issues. The reviewing of the representations by a Commissioner will obviate any further review. Escalation to Commissioner level of this high risk case is fully in line with the Governance arrangements.

In view of the complexity, the high public profile of the organisation, MP interest and potential public repercussions, I propose that the decision be 'fast-tracked' to the Commissioners for consideration.

Delegation to Nominated Commissioners:

Since the implementation of the Charities Act 2006 (in part) and the constitution of the Commission as a corporate body, there is no longer an express statutory power for the Chair (formerly the Chief Commissioner) to act on behalf of the Commission in delegating matters to individual Commissioners. Pending the adaptation of standing orders on this point, it is preferable that all the members are approached for authority to delegate this matter to two Commissioners. You have the power to delegate such a decision under Paragraph 8 (a) of Schedule 1 of the Charities Act 2006. My recommendation is that you delegate this review to Lindsay Driscoll and John Williams with full power to determine the matter on behalf of the Commission. This is an assumption that none of those nominated have a sufficient conflict of interest which would inhibit them from so acting in this capacity.

It has been flagged by the charity's solicitor that David Unwin has previously dealt with this matter, before he came to the Commission, and as such a conflict of interest may arise. David may also feel that he should recuse himself from this decision also.

Kenneth Dibble
Executive Director, Legal and Charity Services

CHARITY COMMISSION
ALEXANDRA PARK AND PALACE

DECISION TO AUTHORISE THE GRANT OF A LEASE OVER THE PALACE AND
SURROUNDING LAND UNDER THE ALEXANDRA PARK AND PALACE ORDER
2004

DECISION OF THE COMMISSION MADE 27 April 2007

1 The issue before the Commission

1.1

Whether to authorise the grant of a lease for 125 years over the Palace and its immediate surrounding land under clause 3 of the Scheme established under the Alexandra Park and Palace Order 2004.

1.2

The Commission on 28 November 2006 gave public notice of its intention to authorise the charity to lease the Palace and immediate surrounding land to a developer for a term of 125 years by way of Order made under the Scheme. The notice invited representations to be made by members of the public to the Commission about the proposed order. A substantial number of representations were received.

The representations now needed to be considered by the Commission before determining whether the authorisation should be given.

2 Decision of the Commission

2.1

Having considered the representations and reviewed the basis for authorising the lease, the Commission has determined that the lease should be authorised.

2.2

This decision to authorise the lease on behalf of the Commission was taken by Lindsay Driscoll and John Williams, Members of the Commission's Board and Commissioners (the Commissioners) under delegated authority.

3 Background

3.1 Alexandra Park and Palace

Alexandra Park and Palace (the Charity) is governed by the Alexandra Park and Palace Act 1900, the Alexandra Park and Palace (Public Purposes) Act 1913, The Alexandra Park and Palace Order 1966 and the Alexandra Park and Palace Act 1985, and the Charities (Alexandra Park and Palace) Order 2004 (collectively known as the Alexandra Park and Palace Acts and Orders). The Park and Palace are held on charitable trust to be used as a place of public resort and recreation and for other public purposes (the purpose of Alexandra Park and Palace Acts and Orders).

The trustee of the Charity is the Council of the London Borough of Haringey (the Trustee) which has formally delegated the fulfilment of the functions, powers and duties of the Council as trustee of Alexandra Palace and Park under the Alexandra Park and Palace Acts and Order 1900 to 2004 to a committee known as the Alexandra Park and Palace Board (the Board).

3.2 The Alexandra Park and Palace Order 2004

The Alexandra Park and Palace Order 2004 (the 2004 Order) was made on 27 January 2004 and came into force on 10 February 2004. The Order brought into effect a scheme (the Scheme) which is set out in an Appendix to the Order.

Clause 3 of the Scheme provides as follows –

Power to lease. The Trustees may, subject to the consent by Order of the Charity Commissioners, grant a lease of the whole or part or parts of the Palace buildings and the immediate surrounding area (which for the purpose of identification only is shown coloured red on the plan deposited with the Charity Commissioners under number 46278) for a term not exceeding 125 years at the best rent reasonably obtainable regard being had to the purpose of the Alexandra Park and Palace Acts and Order 1900 to 1985, provided that the Trustees may not grant any such lease which permits a use otherwise than is consistent with the said purposes.

3.3 The proposed Order, publication and consultation

The Board formed the view that the purposes of the Charity could be more effectively carried out if the Palace premises could be developed for recreational and other use consistent with the purposes of the charity. This would also ensure the financial viability of the Charity which had been subject to a revenue deficit for a number of years. Following professional advice, the Board carried out a marketing exercise seeking bidders for development of the Palace and immediate surrounding land under a long lease. The Board, having received expressions of interest, invited submissions from preferred bidders and, against established criteria, selected a preferred developer and lessee.

Having negotiated terms for the letting of the whole of the area subject to Clause 3 of the Scheme to a developer, the Board requested an order of the Commission to allow it to grant a lease (the proposed lease) pursuant to Clause 3 of the Scheme. When the 2004 Order was subject to Parliamentary scrutiny, the Commission had agreed that any order authorizing a lease would be subject to public consultation given public concerns which had arisen. Accordingly, once the Commission considered the case put by the Board and decided that the order should be made authorizing the lease, it published the proposed order and sought the views of the public.

Where legislation requires the Commission to publish a draft order, the period for the public to make representations is not less than one month. A similar procedure was put in place for this voluntary publication although a period of five weeks, to take account of intervening public holidays, was selected for the public to make representations. The draft order was published on 28 November 2006 in the Times newspaper, six local London newspapers and on notice boards at the Palace and Park. The public consultation period closed on 5 January 2007 although in practice, representations received after this date were also given consideration.

In all, 328 representations together with a petition signed in 2004 were received and considered by the Commission.

4 Framework for the issues considered

4.1

The Commissioners considered that in reaching their determination, as to whether to authorize the Trustee to enter into the proposed lease, they needed to consider whether, firstly, the proposed lease was within the power to let as prescribed by Clause 3 of the Scheme and, secondly, whether the grant of the proposed lease could be authorized as being expedient in the interests of the charity, taking into account the representations which had been received. The Commissioners dealt with each issue in turn.

4.2 Is the proposed lease within the power conferred by the Scheme?

4.2.1 The Commissioners noted the provisions of Clause 3 of the Scheme as set out in paragraph 3.2 above. The Commissioners noted the following provisions of the proposed lease:

- the area to be let in the proposed lease covers the Palace buildings and the immediate surrounding areas, all of which fall within the area delineated in the plan and deposited with the Commissioners at the time of the Scheme.
- the term specified in the proposed lease is 125 years and is therefore the maximum term permitted in the 2004 Scheme.
- the proposed lease makes provision for rent and other financial payments to be made by the tenant to the Charity. The obligations described as rent in the proposed lease are certain obligations of a periodical nature which would properly be described as rent under common law or under the definition in section 205 of the Law of Property Act 1925¹.

4.2.2 The Commissioners noted that surveyors acting exclusively for the Charity have advised the Board that the terms of the proposed lease agreed represent the best disposition available to the Charity, and that they confirmed that the rent provisions represented the best rent reasonably obtainable, regard being had to the purpose of the Alexandra Park and Palace Acts and Orders. The Commissioners noted that they had no reason to question that view, particularly given that the proposed tenant was selected from thirteen expressions of interest in a lease of the Palace following a marketing campaign specially devised for the Palace by the Charity's professional advisers.

The Commissioners noted that given the limited use to which the building could be put given its state of repair, any tenant would need to make a substantial capital investment.

4.2.3 The Commissioners further noted that the final requirement in Clause 3 of the Scheme is that the use permitted by the lease must be consistent with the purposes of the Alexandra Park and Palace Acts and Orders. They noted that the use which the tenant is permitted to make of the Palace is restricted in the proposed lease, being expressly restricted to "uses of the Premises consistent with the purposes of the Alexandra Park Acts". They noted that the proposed lease also describes ancillary uses, but makes it clear that these, "for the avoidance of doubt must be consistent with the purposes of the Alexandra Park Acts".

¹ See for example Woodfall 7.0001-7.0026

The Commissioners also noted that the purposes of the Charity, as derived from the Alexandra Park and Palace Acts and Orders, are that the Park and Palace are to be used as a place of public resort and recreation and for other public purposes. The Commissioners considered that the primary uses and ancillary uses described in the proposed lease were consistent with those purposes. They are *either* uses to which the Trustee might itself have put the Palace in order to promote the free use and recreation of the public *or* they are uses to which the Trustee might have permitted others to put the Palace under other powers conferred under the Alexandra Park and Palace Orders.

4.2.4 The Commissioners further noted that the Scheme contemplates that the Palace will be developed and let on a commercial basis by a developer, paying to the Charity the best rent reasonably obtainable given the required use. However the Commissioners considered that the Scheme only permits the developer to make use of the Palace in a way which the Trustee could have done in pursuit of its charitable purposes. It only permits a use under any lease which is consistent with the management of the Park and Palace as a whole by the Trustee as a place of free use and recreation of the public. The Commissioners concluded that a commercial development lease was contemplated by the power to let in the Scheme and that the use permitted by the proposed lease is consistent with the purposes of the Charity.

4.2.5 The Commissioners concluded that the proposed lease fell within the power to let conferred by the Scheme.

5 Is granting the proposed lease expedient in the interests of the Charity?

5.1

The Commissioners noted that the Scheme required the consent of the Commission to the proposed lease to be provided by way of an order and that the Commission's authority to make the order derived from the Scheme. The Commissioners considered that it was implicit in the power to make an order under the Scheme that the order should only be made if the grant of the lease in question was expedient in the interests of the Charity². The Commissioners also considered that it was implicit in the power to make the order that where it was expedient to do so, the Commission could include incidental and supplementary provisions.

The Commissioners noted that in assessing whether a course of action is expedient in the interests of the Charity, the Commission is not able to substitute its decision for that of the Trustee. Section 1E of the Charities Act 1993 specifically prohibits the Commission from acting in the administration of a charity. Rather, it is for the Commission to consider whether the Trustee had made the decision in furtherance of its objects and powers, the decision was properly taken and that it was taken in the best interests of the Charity.

Finally, the Commission would need to be satisfied that the decision was in the interests of the Charity and provided an advantageous means of furthering its purposes.

5.2

The Commissioners considered the information provided by the Board on behalf of the Trustee about the decision it had taken and the criteria described above for determining whether the proposed lease was expedient in the interests of the Charity.

² See by way of analogy the Commission's power to authorise dealing in charity property conferred by Section 26 of the Charities Act 1993

5.2.1 The Commissioners first considered whether the decision was properly taken by the Board in the best interests of the Charity. In particular they considered that the responsibilities of the trustees in making such a decision were as follows:

- To act within the powers conferred upon them and the established rules and procedures for dealing with issues of the kind under consideration³.
- To act in good faith⁴
- To adequately inform themselves in order to make the decision in question⁵
- Not to take into consideration any factors which it was not proper for them to take into account⁶
- To consider any factors which they should take into account⁷
- To act reasonably (i.e. the decision should be within the range of decisions which a reasonable body of trustees could have made)⁸

5.2.2 The Commissioners concluded that the decision had been properly taken in the best interests of the charity after consideration of the following factors:

5.2.3 Whether the proposed lease was within the terms of the power conferred by the Scheme.

The decision had been taken by the Board to whom fulfilment of the functions, powers and duties of the Council as trustee had been delegated. The decision was therefore taken within the rules and procedures established for taking decisions in connection with the management of the Charity.

5.2.4 Whether the Trustee had acted in good faith.

As the Charity has been supported for many years by loans from Haringey London Borough Council (Haringey) (the total owing to Haringey has previously been the subject of some dispute), there were inevitably some conflicts of interests between the Council in its capacity as Trustee of the Charity and the Council in its capacity as a local authority. It was also recognised that the Charity and Haringey shared a common interest in arrangements which improve the financial position of the Charity. In the Commissioners' view, the delegation of the Trustee's functions and the

³ *re Hastings-Bass dec'd* (C.A) [1975] Ch 25

⁴ *re Hastings-Bass (supra)*; *Armitage v Nurse* [1997] 2 All ER 705

⁵ *R v Charity Commissioners ex parte Baldwin* (2001) 33 HLR 48, QBD; *Scott v National Trust (supra)*

⁶ *Mettoy Pension Trustees v Evans* (Ch.D.) [1990] 1 WLR 1587; *Dundee General Hospitals Board of Management v Walker and another* [1952] 1 All ER 680

⁷ *Mettoy Pension Trustees v Evans supra*; *Dundee General Hospitals Board of Management v Walker and another supra*

⁸ *Lee v Showmen's Guild of Great Britain* [1952] 1 All ER 1175; *Scott v National Trust* [1998] 2 All ER 705