

Ordinary Meeting of Harberton Parish Council 13th February 2024

This document has been compiled to support Parish Councillors' consideration of the following agenda item:

Item 14: **Totnes Rural Area Youth Engagement Project** *To consider the proposal for a Memorandum of Understanding (MoU) and to agree the way forward in light of powers under Section 137 of the Local Govt Act 1972 and DALC advice for a grant application and monitoring process.*

The following information is included in this briefing document:

1. An update for context
2. Information about Section 137 'the power of last resort'
3. A draft Memorandum of Understanding (MOU) for Parish Council consideration

1. Update for context

The Totnes Rural Youth Area Engagement Project (TRAYE) has been facilitating a youth club in Harbertonford. Harberton Parish Council supported a trial of the initiative following a request from volunteers running the Harbertonford Youth Club that further support was needed. The Parish Council initially contributed to the project through its reserves. Since then, amount of precepted funds contributed to the project grew to £1000 per year. TRAYE applied to the Community Benefit Fund in 2021, 2022 and 2023 to top up funds. The Parish Council increased the budget line for 'youth provision/TRAYE' to £1500 in the 2024/5 budget. As the Parish Council has no powers to deliver or commission youth services, the Parish Council has only given grants or contributions to TRAYE under Section 137 of the of the Local Government Act 1972 rather than enter into any agreement that would imply a contract.

In December 2023 the Parish Council received correspondence from TRAYE inviting a representative of the Parish Council to attend a Steering Group meeting, at which a draft 'Service Level Agreement' between TRAYE and Parish Councils would be under consideration. This was discussed under item 13.11 of the December 2023 meeting. Please see an extract from the minutes:

Notice and invitation to TRAYE project Steering Group meeting Fri. 15.12.23 @3pm For consideration Cllrs have been informed that two representatives of the Parish Council have been invited to attend the next meeting of the TRAYE steering group at 3pm on Friday 15th December 2023. An agenda has been provided along with a draft Service Level Agreement between TRAYE and Parish Councils that will be discussed at the meeting. It was noted by the Clerk that other local Parish Clerks have sought advice and discussion on whether it would be appropriate or relevant for a Parish Council to enter into a Service Level Agreement. The Clerk commented that Parish Councils have no powers to provide Youth Services unless the principal authority (i.e. the County Council) was to delegate powers and hand them over to the Parish Council, but only on approach and if it was something the Parish Council was keen to do. Without any powers, any spending would be out of Section 137 as there is no general power of competence to spend on whatever the Parish Council wants to. It was noted that the Parish Council has rather provided a grant to TRAYE on receipt of an application, by way of a contribution to the service that the charity offers to the community.

Following this meeting, TRAYE has agreed that a Memorandum of Agreement instead of a Service Level Agreement be proposed to Parish Councils for consideration.

2. Information about Section 137 'the power of last resort'

What is section 137?

Section 137 (also known as s137) of the Local Government Act 1972 enables a council to incur expenditure where there is no other power available, when the community would benefit. It is known as the power of last resort; the power you can use when you cannot find any other power to use.

What limitations are there?

Expenditure under this power must be “in the interests of and will directly benefit its area or any part of it and some or all of its inhabitants” and the ‘benefit’ must be commensurate with the expenditure incurred.

While councils may use s137 to give some grants to community organisations, many of the other powers available to the council might be used for giving grants. For example, the council has the power to provide and furnish community buildings, which could be used to give a grant to a community building.

Section 137 can be used to give money to a commercial operation provided that the whole community will benefit. A grant under s137 should not be given when the benefit is solely to one person but one person can benefit financially where the community also benefits. The power should not be used as a long term prop to a commercial venture so councils should be cautious of giving regular grants.

How much can we spend using section 137?

Expenditure using the power is limited to a specified amount each year, which is multiplied by the number of electors in the parish. The amount is set annually by the government.

Any expenditure incurred under s137 must be listed separately in the council's accounts to enable the council to track how much it is spending using s137.

- The amount for the 2023/24 year is £9.93 per elector
- The amount for the 2024/25 year has been announced and will be £10.81 per elector
- There are 1076 electors on the 2024 Register of Electors in Harberton Parish.



TRAYE

Totnes Rural Area Youth Engagement Project
www.traye.org

Memorandum of Understanding

between

[insert] Town / Parish Council

and

Totnes Rural Area Youth Engagement (TRAYE) project

Agreement Date: **[insert date]**

Background:

This **Memorandum of Understanding** (MOU) dated [insert date] establishes the basic terms to provide a working arrangement to deliver local youth services between [insert name of council] and **Totnes Rural Area Youth Engagement (TRAYE) project**.

This document does not create a binding agreement between the two organisations and will not be legally enforceable.

1. Purpose and Scope

This Memorandum of Understanding sets out the broad terms, principles and practices that will apply to the working relationship between TRAYE project and the Town and Parish Council where TRAYE delivers youth services.

2. Duration

2.1. This is an annual renewable MOU. It applies from [May 1st – insert year until 30th April - insert year]. If the Council wishes to terminate this MOU, it can do so in accordance with clause 8.

2.2 Three months prior to the end of this MOU, the Council will inform TRAYE project in writing whether or not it wishes to renew the MOU at the end of the current term.

3. Obligations

TRAYE project shall ensure that Youth services are provided in the parish every fortnight during term time and host wider network youth events during school holidays. The fortnightly youth services will comprise two-hour sessions. The operating times shall be decided by TRAYE project.

4. Funding

4.1 The Council will pay £3,500 each year, for this service. the sum to be reviewed annually.

4.2 The payment to be made in either one or two tranches, in May, or in May and in November.

4.3 The Council may be responsible for hiring of a suitable venue where youth services are provided.

4.3 The Council will support TRAYE project's bids to the local District and County Councillors for locality grant funding each year.

4.4 If TRAYE fails to raise insufficient funds to continue to deliver youth services as specified, all participating parish councils will be notified of this and any subsequent decision taken by TRAYE project Trustees.

- 4.5 TRAYE would expect to give at least a 3 month notice of failure to raise sufficient funding to continue services.

5. Staffing

TRAYE project will ensure that it provides a safe environment for its staff, young people who attend the services and events and other members of the public and that the Service provided by its staff to the public is efficient and safe.

6. Record Keeping

- 6.1 Each year TRAYE project will provide the Council with a copy of the full set of annual accounts and an annual report of the activities, sessions and services that TRAYE have provided to the Council in each participating town and parish that year.
- 6.2 TRAYE project will provide an attendance count from youth sessions and events each year.

7. Monitoring and Review

- 7.1 The Service can be reviewed jointly by the Council and TRAYE project, by mutual consent.
- 7.2 The Council will be formally notified of and invited to attend the Annual General Meeting and any Extraordinary General Meeting of TRAYE project and have full voting rights with a single, non-transferable vote.
- 7.3 The Council is invited to have a representative on TRAYE Steering Group.
- 7.4 The Council can invite the Lead Youth worker for TRAYE in their parish to occasionally attend a monthly full council meeting to provide and update on the TRAYE youth work in their parish.

8. Termination

If at any time either party wishes to terminate the MOU, it may do so by giving to the other party three months' written notice

9. Insurance

- 9.1 TRAYE project will ensure that valid policies of insurance are in place with a reputable insurance company for £1million worth of cover for third party and public liability risks.
- 9.2 TRAYE project shall provide a copy of such insurance policies to the Council when requested to do so, together with evidence that the relevant premiums are up to date

10. Confidentiality

Both parties shall comply with the requirements of the Data Protection Act 2018 / General Data Protection Regulation or such other legislation or amendments which regulate the processing of or disclosure of personal data

11. Complaints

Complaints regarding the services provided by TRAYE project, that the Council may wish to raise or have investigated, should in the first instance, be referred to the Parish Council's own representative for TRAYE project who can in turn contact the Honorary Secretary of the TRAYE project Trustees.

If this fails to resolve the problem or enquiry, or where the Council has not elected a representative to TRAYE project, the Council should contact the Chairperson of the TRAYE project Trustees directly.

IN WITNESS whereof the parties have signed this **Memorandum of Understanding** as follows

SIGNED: _____

For an on behalf of the Council

NAME _____

(Please print)

DATE _____

SIGNED: _____

For and on behalf of Totnes Rural Area Youth Engagement (TRAYE) project

NAME _____

(Please print)

DATE _____