

# Why you want us to review our decision about your complaint

Please fill in all sections of the form so we have all the information we need to reach a decision on your review request.

**1. What do you think we got wrong in reaching our decision? Please provide clear and specific details about what we did rather than what the organisation you complained about did.**

We don't think you fully appreciated the implications of the following statement in the Commission's review 2016:

*"We also appear to have omitted to indicate to CFWI<sup>[1]</sup> that in holding the property they did so on its existing trusts, i.e. the trusts declared in the 1937 Conveyance, and not in accordance with their own objects."*

This acknowledged that the 1937 Conveyance was in effect a trust deed. While your report correctly says:

*"...designated that the land should be used for an institute for the women of Kelly Bray and therefore could only be used for that purpose".*

you subsequently ignore the implications. The word "institute" was fashionable at the time as describing a meeting place (with perhaps some educational pretensions). There was already a "Men's Institute" in Kelly Bray which was not affiliated to any organisation. The wording avoids "Women's Institute" as that had a specific meaning so "**an institute for the women of Kelly Bray**" simply means a meeting place for the women of Kelly Bray.

The point we believe you have missed is that it was not therefore a part of KBWI's<sup>[2]</sup> Charitable property because KBWI could not have sold it and used the proceeds to further its own aims as described in the WI constitution firstly because those aims are much wider than the aim of the trust and secondly because the beneficiaries of the trust were the women of Kelly Bray not just the members of KBWI. There is perhaps a need to distinguish between KBWI(the charity) which operates under the WI constitution and KBWI(ladies) who administered the hall as per the 1937 trust. Note KBWI(ladies) always kept accounts for the hall separate from WI(Charity) accounts. I submit therefore that the hall was not a part of the charitable property of the KBWI(the charity) (for exactly the same reason it was not part of CFWI's charitable property). The position of KBWI was the same as described in the review w.r.t CFWI.

***In holding the property KBWI did so on its existing trusts, i.e. the trusts declared in the 1937 Conveyance, and not in accordance with their own objects - as defined in the WI constitution.***

The fundamental mistake made by the Commission in 2012 was to ignore what the conveyance **actually said** even when in April 2012 we pointed it out:

*" While the deeds take precedence over the governing document the only relevant statement in the deeds is that it was sold 'for a site for an Institute for the Women of Kellybray'. As an 'institute' is simply a 'meeting place' and as it has never been exclusively a meeting place for women, what is proposed represents no significant change either in designation or in how the property is used."*

You appear to have attached no importance to this email. The Commission dismissed this point of view and decided it was a part of KBWI's charitable property and this coloured everything which happened subsequently.

Once the existence of the 1937 trust was acknowledged (review 2016) it is clear CFWI had no claim on the property - it wasn't a part of KBWI's charitable property so it did not come under section 50 of the WI constitution. The beneficiaries of the trust were "the women of Kelly Bray" and there is no way that can be construed to imply any rights on the part of CFWI. Despite that, your report assumes that the trust deed under which the Village Hall Committee would have operated would have been unchanged and would still have allowed the hall to transfer to CFWI if the Village Hall Committee (KBRA<sup>[3]</sup>) had been unsuccessful in its aims. Had the Commission "got it right" there is no reason for that provision to be there and if it were, it would have had to stipulate that CFWI would be "*holding the property on the trusts declared in the 1937 Conveyance, and not in accordance with their own objects.*" Not something which CFWI would want as they would be responsible for looking after a hall with no possible benefit to them - they couldn't sell it and use the proceeds.

The report is sloppy in talking in terms of "who it belongs to" and "who could sell it". The working trustees (whoever they happened to be) could not sell the hall and use the proceeds to further other charitable aims as there are no other charitable aims under the trust. It makes more sense to say that the hall belonged to "the women/people of Kelly Bray" rather than whoever happen to be the working trustees.

[1] CFWI = Cornwall federation of Women's Institutes

[2] KBWI = Kelly Bray Women's Institute

[3] KBRA = Kelly Bray Residents Association

## **2. Please explain why you think the points you made in section 1 would make a difference to our decision or might change it.**

Section 70 of your report says *"In addition, we note that the Committee did not lose a material asset because the intention was only for them to manage it while it could be successfully used for village activities. The Committee would not have been able to sell the Hall. Had they been unsuccessful in their aims, it would have reverted back to the WI."*

This is not true as explained above. Had the Commission "Got it right" the trust deed would have contained no provision to transfer it to CFWI and it could not "revert back to the WI" because the WI(charity) never "owned" it. The Hall Committee would have managed it on behalf of 'the women of Kelly Bray' or more accurately 'the people of Kelly Bray'. The only circumstances they could have sold it (with the Commission's agreement) would be to raise money to put towards a new Hall. They could not have sold it to further their own aims as their sole aim was to provide a Hall for the village and stimulate social activity in that hall.

The "women/people of Kelly Bray" were the beneficiaries and they are the ones who have lost a material asset. KBRA are the only organisation specifically constituted to represent the interests of the residents of Kelly Bray and it is on behalf of KBRA that we made the appeal (we are committee members). The women/people of Kelly Bray have lost a hall which would cost around £250,000 to reinstate. Due to the Commission's mistakes it was transferred to CFWI who sold it for a mere £25,000. Which you state - without justifying it - was "market value"<sup>[1]</sup>. Even that £25,000 is not to be held in trust for the people of Kelly Bray because "CFWI have spent it"?! Despite our querying this, no justification has been given as to why the Commission or you, think that the expenditure was justified under the terms of the 1937 trust. We have provided evidence that the money was spent on depriving the village of its hall - the antithesis of the purpose of the trust.

**Your thinking seems to be influenced by your mistaken belief that despite the Commission's errors the Hall would have ended up with CFWI in the long run so no real harm was done. As stated in section 1 this is not true. CFWI had no claim on it.**

[1] Since then it has changed hands for about £140,000 with planning permission for two dwellings

## **3. What would you like to see happen as a result of this review request? Please explain what you think we could do to resolve your complaint that we have not done already.**

We would like you to review what is in your report in light of the fundamental errors we have highlighted. Having done so it should be clear that your reasoning regarding compensation does not stand up and should be reviewed.

Because of mistakes made by the Charity Commission, the people of Kelly Bray have lost a piece of land given to them in trust by the King, and the hall which stood on it. The remedy we are looking for is the setting up of a trust fund which can be used towards providing a meeting place for the people of Kelly Bray at some future date.

The property was sold for £25,000 and that represents the absolute minimum but that would not be enough to purchase a piece of land to replace what was lost which would be about £150,000. To buy land and reinstate the hall would be around £250,000 but we do accept that while usable, the Hall was nearing the end of its useful life.