

**THE FOLLOWING IS A FACTUAL ACCOUNT OF THE EVENTS LEADING TO THIS SITUATION. IT IS EVIDENCED BY E-MAILS, A SAFETY REPORT, A SUB-LEASE AND COMPANIES HOUSE DOCUMENTATION**

Currently the skatepark is closed and Ottery St Mary Town Council is concerned of any misinformation which may be being circulated regarding the closure. The following is a factual account of the events leading up to the decision, which is evidenced by e-mails, a safety report, a sub-lease and Companies House documentation.

The Ottery St Mary Skate Park is leased to the Ottery and District Skate and BMX Trust (Company registration no. 07331911) by virtue of a sublease dated 29th July 2016, from Ottery St Mary Town Council. The term of the lease runs [until 11th April 2031](#). The Trust had full responsibility for the running of the skatepark and the maintenance of the equipment, as clearly specified in the terms of the sublease. The Trust's Memorandum of Association dated 20th July 2010 filed at Companies House, provides the objectives of the directors, one of which states: - *to provide, maintain and equip parks and facilities for recreational use including skatepark and BMX facilities within Ottery St Mary and its surrounding area*

The Trust had made an application for grant funding late last year. Unfortunately, despite councillors having had three meetings with the Trust about their application and explaining the Council's criteria for funding (which required the Trust to show they had carried out fund raising and had a specific project in mind) they had failed to action this. The Council had also offered the Trust support and advice and to sign post it to the relevant organisations who may have been able to assist, but it had not taken up the offer. The Council had also explained to the Trust that despite their lease only have a further nine years to run, that this was no deterrent to seeking grants as there were many funders who were willing to provide grants for this type of activity, regardless of the length of a lease. In addition, as directors and in accordance with their Memorandum of Association, one of their duties was to fund raise. However as far as the Council is aware no action was taken by the Directors in this respect.

On 27<sup>th</sup> July the Council was advised by the Trust that all three directors had resigned with immediate effect. This was confirmed by the filing data on Companies House website which states that all three directors resigned on 24th July. We do not know why there was a three-day delay in informing the Council of this decision.

On 28th July the Council's CEO requested a copy of the Skatepark's safety report from the Trust. This was received the same day. The report was dated 8th November 2021. The CEO picked out a number of safety issues which the safety inspector classed as *Medium Risk* and which report stated *'If possible remedial action to be taken within 2 months (by January 2022) to reduce the risk levels classed as medium risk'*.

The CEO asked the Trust on 28th July if the items classed as `Medium Risk` had been addressed in the recommended 2 months' timescale.

On the 29th July the Trust replied *`that not all the medium risks jobs have been successfully attended to..... We have taken the decision to close the skate park today (29th July)*. The Trust then closed the skate park (locked the gates etc) and the Council does not currently have any keys to access the premises

On 29th July, the CEO contacted the Council`s solicitors for advice and assistance regarding the sublease and implications of the trustees resigning and the recommended action the Council should now take in respect of the skatepark. In response, the solicitors have advised that the Council *`is not technically liable for the skatepark because it is not in possession of the Skatepark`*. The solicitors have also pointed out that the Trust has likely breached specific provisions of the Companies Act 2006.

It is most unfortunate that the Trust decided not to have any prior dialogue with the Council about the course of action it was intending to take, particularly as its actions would impact greatly on youngsters during the school holidays. If the Council had been made aware, it would have taken all appropriate steps to try and avert this unnecessary situation occurring, by providing help and support to the Trust and to formulate `a plan of action`. Subsequently the Council has been left to deal with a difficult situation which is not of its making. However please be assured that the Council is working hard behind the scenes with various parties to get the skate park re-opened as soon as the `legals` and safety issues have been addressed. We would respectfully ask you to bear with us until such time as we are able to achieve this.

Ottery St Mary Town Council

3<sup>rd</sup> August 2022