

# CABINET SUB-COMMITTEE (COUNCIL CHARITIES)

12 DECEMBER 2016

\* PART 1 – PUBLIC DOCUMENT

AGENDA ITEM No.

**5**

## TITLE OF REPORT: ANNUAL ACCOUNTS AND RETURNS FOR COUNCIL ADMINISTERED CHARITIES

REPORT OF THE HEAD OF FINANCE, PERFORMANCE AND ASSET MANAGEMENT

### 1. SUMMARY

1.1 This report includes the returns required for each of the Charities/Charitable Trusts administered by NHDC.

1.2 These Charities /Charitable Trusts are:

Hitchin Town Hall Gymnasium & Workmans Hall Trust  
King George's field  
Smithson Recreation Ground  
Herts Yeomanry collection

1.3 The Charities Sub-Committee approve the accounts and annual reports prior to submission to the Charities Commission, if a return is required. If annual income is over £10k, this takes the form of an annual return, with accruals accounts required if annual income exceeds £25k. If annual income is below £10k then no specific return is necessary, although the registered details must be kept up to date, e.g. income, expenditure, trustees, contact details.

1.4 The duty to file accounts and the annual report with the commission applies to all charitable incorporated, i.e. non-company, organisations (irrespective of income) and to all other registered charities whose gross yearly income exceeds £25k. The annual report and accounts should be filed online.

1.5 The financial thresholds are subject to periodic review. The most recent changes have been to the income criterion for audit and the threshold for preparing consolidated (group) accounts under the Charities Act 2011. These changes took effect for financial years ending on or after 31 March 2015.

1.6 As the Charities Commission now requires information to be submitted electronically, the attached information is for reference at the Sub-Committee today. Returns must be submitted within ten months after the financial year-end for the charity.

### 2. RECOMMENDATIONS

2.1 That the Charities Sub-Committee approves the information required by the Charities Commission for the four registered charities, so that the returns can be submitted prior to the January 2017 deadline.

- 2.2 That the Charities Sub-Committee notes the requirement for those charities with gross income of more than £25k in their financial year to have their accounts independently examined and, as this applies to King George's Field, instructs this to be undertaken for those accounts for 2015/16. This will be undertaken by the Shared Internal Audit Service (SIAS).

### **3. REASONS FOR RECOMMENDATIONS**

- 3.1 To facilitate the submission of approved returns to the Charities Commission.

### **4. ALTERNATIVE OPTIONS CONSIDERED**

- 4.1 None.

### **5. CONSULTATION WITH EXTERNAL ORGANISATIONS AND WARD MEMBERS**

- 5.1 None.

### **6. FORWARD PLAN**

- 6.1 This report does not contain a recommendation on a key decision and has not been referred to in the Forward Plan.

### **7. BACKGROUND**

- 7.1 The Charities commission recommend that "the management of a charity should be kept separate, as far as possible, from the business of the local authority. Depending on the size and circumstances of the charity, it may make sense for a committee of councillors to be allocated to this task....Equally the finances of the trust must be kept separate from those of the Council".

- 7.2 This Sub-Committee was established to discharge this duty on behalf of NHDC.

- 7.3 The information provided below is produced by nominated Officers with support from the finance team. Once approved by this Committee, the returns will be submitted by the nominated Officers.

### **8. ISSUES**

The following Council Charities are registered with the Charities Commission (with registration number in brackets):

#### **8.1 Hitchin Town Hall Gymnasium and Workmans Hall (CC Number 233752)**

- 8.1.1 The financial statements for this Trust are included in Appendix 1a and the Head of Revenues, Benefits & IT produces the annual report, as included in Appendix 1b.

- 8.1.2 These buildings remained closed to the public during 2015/16 as redevelopment works progressed. Therefore costs incurred by the Trust are very low.

- 8.1.3 In respect of other issues arising, Members will be aware that there have been two reports to Council during the year. The first of these in January related to the acquisition of 14/15 Brand Street. The second of these in May related to the fit-out of the museum after the receivership of the main contractor. Members of this Sub-Committee have absented themselves from those discussions at Council and have not taken part in any

associated votes. Members of this sub-committee have received oral updates on the situation with the Town Hall and Museum at their meetings on 23 March 2016 and 22 August 2016.

- 8.1.4 The Part I Council reports are included as appendices (detailed in section 15) for information.

## **8.2. King George's Field Hitchin (CC Number 1087603)**

- 8.2.1 The accounts for this Trust are produced by the Parks and Countryside Development Manager and are attached (as Appendix 2a) along with the draft annual return (as Appendix 2b).

- 8.2.2 The most significant income source to this Trust was the NHDC contribution of £73k, which largely funded the ongoing maintenance and administrative costs to NHDC arising from these playing fields.

- 8.2.3 As the income figure exceeds £25k an independent review by the Shared Internal Audit Service (SIAS) has been requested

## **8.3. Smithson Recreation Ground, Hitchin (CC Number 264311)**

- 8.3.1 The day to day management of the grounds lies with Leisure & Environmental Services. The accounts for this Trust are produced by the Parks and Countryside Development Manager and are attached (as Appendix 3a) along with the draft annual return (as Appendix 3b). Smithson Recreation Ground returns only comprise an Income and Expenditure Statement because there is no asset value to make up a Balance Sheet.

- 8.3.2 For 2015/16 the overall operating cost incurred was just over £4k.

## **8.4. Hertfordshire Yeomanry and Artillery Collection (CC Number 1100515)**

- 8.4.1 This is the only charity that does not involve land or buildings. It is a collection of military artefacts bequeathed to the Council by way of a Trust Deed dated 6 August 2003.

- 8.4.2 This collection is managed by the Museum Curator. As the funds are less than £10k then all that the Charities Commission requires is a confirmation that nothing has changed with regard to the Collection in the past financial year. The responsible NHDC officer, the Museum Curator, has confirmed this is the case. Therefore there is no specific return for the sub-committee to approve, and consequently no Appendix.

## **8.5 Independent Audit or examination of the Accounts of the Trusts**

- 8.5.1 The nature of the scrutiny of the accounts will depend on the income and assets of the charity. An independent examination is needed if gross income is between £25k and £1 million and an audit is needed where the gross income exceeds £1 million. An audit will also be needed if total assets (before liabilities) exceed £3.26 million, and the charity's gross income is more than £250,000.

- 8.5.2 The Charities Act defines gross income to mean the gross recorded income *from all sources*. That includes income received from NHDC. In terms of prudent financial management therefore, officers propose that King George's Field, Hitchin will have to be independently examined. The remaining three Trusts will not require independent examination or audit as the income for is less than £25k. Charities with income of less than £25k are not required to have external scrutiny.

## 9. LEGAL IMPLICATIONS

- 9.1 The Council acts as the Trustee for the above mentioned Charities/ Charitable Trusts and this Sub-Committee of the Cabinet is the managing committee appointed on behalf of the Council to manage them. The Trustees, when carrying out their duties, must act solely in interests of the charity. They do not promote the interests of a 3<sup>rd</sup> party (i.e. the Council), even if that 3<sup>rd</sup> party appointed them as a trustee.
- 9.2 The Sub-Committee's role and function under 5.10.4 (a) (b) and (e) is to act on behalf of the Council as a Trustee for all assets of the Council; consider all matters relating to those Trusts including to receive reports on any matter, including the property and financial implications concerning those trust's assets.
- 9.3 Members of the Sub-Committee are referred to as Trustees in this report and their powers to deal with all matters are contained in their terms of reference (as outlined above).
- 9.4 The Charities Act 2011 sets out the requirement for Charitable Trustees to maintain accounting records, submit annual returns if gross income exceed £10k and for lower-income charities where income exceeds £25k to be examined by an independent examiner (by virtue of sections 130, 169 and 145).

## 10. FINANCIAL IMPLICATIONS

- 10.1 The Council is subject to the following duties in relation to Charitable Trusts:
- Fiduciary duty as Trustee
  - Contractual duty as the nominee of Fields in Trust (where this applies)
  - Statutory duty as Charity Trustee
  - Statutory duties as a local authority landowner (where this applies)
- 10.2 The costs of an independent examination of the accounts. This should be in the region of £280 based on one day of SIAS time.

## 11. RISK IMPLICATIONS

- 11.1 There is a risk that the non submission of annual accounts and/or returns may result in a financial penalty being levied by the Charities Commission.
- 11.2 All charities must keep accounting records, and prepare annual accounts which must be made available to the public on request, which may represent a resource requirement.

## 12. EQUALITIES IMPLICATIONS

- 12.1 The Equality Act 2010 came into force on the 1<sup>st</sup> October 2010, a major piece of legislation. The Act also created a new Public Sector Equality Duty, which came into force on the 5<sup>th</sup> April 2011. There is a General duty, described in 12.2, that public bodies must meet, underpinned by more specific duties which are designed to help meet them.
- 12.2 In line with the Public Sector Equality Duty, public bodies must, in the exercise of its functions, give **due regard** to the need to eliminate discrimination, harassment, victimisation, to advance equality of opportunity and foster good relations between those who share a protected characteristic and those who do not.

12.3 There are no equalities implications arising directly from this report.

### **13. SOCIAL VALUE IMPLICATIONS**

13.1 The Public Services (Social Value) Act was passed at the end of February 2012; under the Act, public bodies in England and Wales are required to consider how the services they commission and procure might improve the economic, social and environmental well-being of the area. 'Social Value' involves looking at what the collective benefit to a community is when a public body awards a contract. It applies to all public services contracts and those public services contracts with only an element of goods or works. It does not apply to public work contracts or public supply (goods) contracts. The Act requires public authorities at the pre-procurement phase of procuring services to consider how what is being procured might improve the economic, social and environmental well-being of an area and how the authority might secure that improvement through the procurement process itself.

13.2 As the recommendations made in this report do not constitute a public service contract, the measurement of 'social value' as required by the Public Services (Social Value) Act 2012 need not be applied, although equalities implications and opportunities are identified in the relevant section at paragraph 12.

13.3 Officers are of the view that the activities of these Charities contribute to social and environmental well-being; either by virtue of the provision of open space and facilities, or due to the intrinsic value of collections held.

### **14. HUMAN RESOURCE IMPLICATIONS**

14.1 There are no human resources implications from this report.

### **15. APPENDICES**

15.1 Appendix 1a and 1b – Hitchin Town Hall Trust accounts and Annual Report.

15.2 Appendix 2a and 2b – King George V Playing Fields accounts and draft annual return.

15.3 Appendix 3a and 3b – Smithson Recreation Ground I&E Statement and draft annual return.

15.4 Appendix 4 – Hitchin Town Hall: Part I Report to Council on 21 January 2016.

15.5 Appendix 5 – Hitchin Town Hall: Part I Report to Council on 19 May 2016.

### **16. CONTACT OFFICERS**

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