

**CABINET SUB-COMMITTEE (COUNCIL CHARITIES)
19 NOVEMBER 2024**

***PART 1 – PUBLIC DOCUMENT**

**TITLE OF REPORT: ANNUAL REPORTS AND ACCOUNTS FOR COUNCIL
ADMINISTERED CHARITIES**

REPORT OF: Service Director: Resources

EXECUTIVE MEMBER: *N/a*

COUNCIL PRIORITY: Thriving Communities

1. EXECUTIVE SUMMARY

This report includes the returns required for each of the Charities/Charitable Trusts administered by the Council. The four Charities/ Charitable Trusts are; Hitchin Town Hall Gymnasium and Workman's Hall Trust, King George's Field Hitchin, Smithson Recreation Ground and Hertfordshire Yeomanry and Artillery Collection. The Charities Sub-Committee approve the accounts and annual reports prior to submission to the Charities Commission, if a return is required.

Another charity has been identified, Mrs Howard Memorial Hall, that the Council used to do annual returns for, but these stopped in 2010. After reviewing the Governing Document it has been determined that these annual returns should have continued. Recommendation 2.3 seeks approval to rectify the situation.

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 31st January 2025 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 and Hitchin Town Hall Gymnasium and Workmans Hall, instructs this to be undertaken for those accounts for 2023/24. This will be undertaken by the Shared Internal Audit Service (SIAS).
- 2.3. That the Charities Sub-Committee delegates to the Service Director: Resources, in consultation with the Chair of the Sub-Committee, authority to provide the required information to the Charity Commission to rectify the position in relation to the Mrs Howard Memorial Hall charity.

3. REASONS FOR RECOMMENDATIONS

To facilitate the submission of approved returns to the Charities Commission.
To rectify the position in relation to the Mrs Howard Memorial Hall Charity.

4. ALTERNATIVE OPTIONS CONSIDERED

4.1 None. There is a need to comply with the Charities Commission requirements.

5. CONSULTATION WITH RELEVANT MEMBERS AND EXTERNAL ORGANISATIONS

5.1. None applicable.

6. FORWARD PLAN

6.1 This report does not contain a recommendation on a key Executive decision and has therefore 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 the Council.

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. For those charities with income under £10k, the Charities Commission only require the submission of summary financial information. For Charities with income between £10k and £25k, summary financial information and responses to some questions needs to be provided (not relevant to any of the Council charities). For charities with income above £25k, the Charities Commission require the following:

- The preparation of accounts which have been subjected to an independent examination.
- Provide a copy of an annual report
- Answers to a set of questions in relation to the charity

7.4 There are further requirements in respect of charities that have an income above £1million and/or assets in excess of £3.26million. These limits are not relevant to any of the Council charities.

8. RELEVANT CONSIDERATIONS

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

Hitchin Town Hall Gymnasium and Workman’s Hall Trust (CC Number 233752)

8.2 The financial statements for this Trust are included in Appendix 1a and the Service Director: Customers produces the annual report, as included in Appendix 1b. Responses to the questions that the Charities Commission requires answers to are attached at Appendix 4.

- 8.3 The most significant income source to this Trust was the Council contribution of £81k, which funded a combination of property costs and museum exhibitions and events. As the income figure exceeds £25k an independent review by the Shared Internal Audit Service (SIAS) has been requested.

King George's Field Hitchin (CC Number 1087603)

- 8.4 The financial statements for this Trust are included in Appendix 2a and the Service Manager for Greenspace produces the annual report, as included in Appendix 2b. Responses to the questions that the Charities Commission requires answers to are attached at Appendix 4.
- 8.5 The most significant income source to this Trust was the Council contribution of £29k, which largely funded the ongoing maintenance arising from these playing fields. As the income figure exceeds £25k an independent review by the Shared Internal Audit Service (SIAS) has been requested.

Smithson Recreation Ground (CC Number 264311)

- 8.6 The day-to-day management of the grounds lies with the Council. The costs of maintaining this land on behalf of the Trust are included in Appendix 3a. As the expenditure (and therefore the income contribution provided by the Council) is less than £10k, the Charity Commission do not require full accounts to be produced. Nor do they require an annual return to be submitted or responses to the set of questions.

Hertfordshire Yeomanry and Artillery Collection (CC Number 1100515)

- 8.7 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. This collection is managed by the Cultural Services Manager. As the funds are less than £10k (and there is no land or buildings) 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 Council officer, the Cultural Services Manager, has confirmed this is the case and that there have been no significant activities or achievements for the charity and nor have there been any decisions taken that required consideration of the public benefit test. Therefore, there is no specific return for the sub-committee to approve, and consequently no Appendix.

Mrs Howard Memorial Hall (CC Number 237090)

- 8.8 Over the summer the Council was made aware of this Charity. The Council had not done any returns for the Charity since 2010. The initial inclination was that this charity needed to be closed. However, after reviewing the Governing Document (see Appendix 5) it was determined that the Charity should remain open. This is because the Governing Document details that the Council (as Trustee) should ensure:
- that the property is used as a "place for meetings lectures and classes and other forms of recreation and leisure time occupation".
 - that part of the building should be used as a "Youth Club", and:
 - that any income should go towards the upkeep of the building and be used for youth provision.

The trustees therefore need to confirm that this happens. The property is leased to Letchworth Garden City Community Group (company number 05180851). The current rent is zero, but will increase to £5k per year in 2028. The building is used as a community facility that includes youth provision. The Council has previously been responsible for repairs and insurance to the property, has funded capital improvements and also continues to fund property compliance works. Therefore, the costs incurred by the Council (as Trustee) have exceeded the income it receives. The Governing Document allows the Council to provide funding towards the running costs of the building but does not make it an obligation.

- 8.9 The Council will need to work with the Charity Commission to provide what is required in relation to the missing years of documentation. To allow this to happen, recommendation 2.3 seeks delegation to the Service Director: Resources, in consultation with the Chair of the sub-committee.

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. Members when carrying out their duties on the managing committee must act solely in interests of the charity. They do not promote the interests of a 3rd party (i.e. the Council), even if that 3rd party appointed them to the managing committee.
- 9.2. The Sub-Committee's role and function under 5.11.4 (a) (b) and (e) of the constitution 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. 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 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 will be around £360 for each of the two charities based on one day of SIAS time.

11. RISK IMPLICATIONS

- 11.1. Good Risk Management supports and enhances the decision-making process, increasing the likelihood of the Council meeting its objectives and enabling it to respond quickly and effectively to change. When taking decisions, risks and opportunities must be considered.

- 11.2 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. The Charities Commission have been supportive in assisting us with working through what is required in relation to the Mrs Howard Memorial Hall charity.
- 11.3 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. In line with the Public Sector Equality Duty, public bodies must, in the exercise of their 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.
- 12.2. There are no equalities implications arising from this report.

13. SOCIAL VALUE IMPLICATIONS

- 13.1. The Social Value Act and “go local” requirements do not apply to this report.

14. ENVIRONMENTAL IMPLICATIONS

- 14.1. There are no known Environmental impacts or requirements that apply to *this report*.

15. HUMAN RESOURCE IMPLICATIONS

- 15.1 There are no HR implications arising from this report.

16. APPENDICES

- 16.1 Appendix 1a- Financial Statements for Hitchin Town Hall Gymnasium and Workman’s Hall Trust
Appendix 1b- Annual Report for Hitchin Town Hall Gymnasium and Workman’s Hall Trust

Appendix 2a- Financial Statements for King George’s Field Hitchin
Appendix 2b- Annual Report for King George’s Field Hitchin

Appendix 3a Costs incurred in relation to Smithson Recreation Ground

Appendix 4- Responses to Charity Commission questions

Appendix 5- Governing Document for Mrs Howard Memorial Hall

17. CONTACT OFFICERS

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18. BACKGROUND PAPERS

18.1 None