

**CABINET SUB-COMMITTEE (COUNCIL CHARITIES)
13 DECEMBER 2018**

***PART 1 – PUBLIC DOCUMENT**

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

REPORT OF: SERVICE DIRECTOR - RESOURCES

1. EXECUTIVE SUMMARY

- 1.1 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 Workmans 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.

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 2019 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 2017/18. 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. 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 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 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.

8. RELEVANT CONSIDERATIONS

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

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

- 8.2.1 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.
- 8.2.2 The museum has been open throughout 2017/18, although not fully open as the ownership of 14/15 Brand Street had not been resolved. This ownership was the subject of a report to this Committee in November 2018. That report highlighted an expectation that the museum will be fully open from Summer 2019.

8.3 King George’s Field Hitchin (CC Number 1087603)

- 8.3.1 The accounts for this Trust are produced by the Service Manager Grounds and are attached (as Appendix 2a) along with the draft annual return (as Appendix 2b).
- 8.3.2 The most significant income source to this Trust was the NHDC contribution of £89k, which largely funded the ongoing maintenance and administrative costs to NHDC arising from these playing fields.
- 8.3.3 As the income figure exceeds £25k an independent review by the Shared Internal Audit Service (SIAS) has been requested

8.4 Smithson Recreation Ground (CC Number 264311)

- 8.4.1 The day to day management of the grounds lies with Leisure & Environmental Services. The accounts for this Trust are produced by the Service Manager Grounds 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.
- 8.4.2 For 2017/18 the overall operating cost incurred was just over £6k.

8.5 Hertfordshire Yeomanry and Artillery Collection (CC Number 1100515)

- 8.5.1 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.
- 8.5.2 This collection is managed by the Cultural Services Manager. 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 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.

8.6 Independent Audit or examination of the Accounts of the Trusts

- 8.6.1 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.
- 8.6.2 The Charities Act defines gross income to mean the gross recorded income *from all sources*. That includes income received from the Council. 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 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. 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 5.10.4 (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 Trustee 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 around £300 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 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 directly from this report.

13. SOCIAL VALUE IMPLICATIONS

- 13.1 The Social Value Act and "go local" policy do not apply to this report.

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 Gymnasium and Workman’s Hall Trust Accounts and Annual Report.
- 15.2 Appendix 2a and 2b – King George V Playing Fields Accounts and Annual Return.
- 15.3 Appendix 3a and 3b – Smithson Recreation Ground Accounts and Annual Return

16. CONTACT OFFICERS

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17. BACKGROUND PAPERS

- 17.1 None applicable