

## APPENDIX C

### HASTINGS AND ST LEONARDS FORESHORE CHARITABLE TRUST

#### GOVERNANCE ARRANGEMENTS FOR RUNNING THE CHARITY

##### Introduction

1. The Hastings and St. Leonards Foreshore Charitable Trust (the Charity) is a registered charity and the Hastings Borough Council (the Council) became the Trustee for all purposes by Charity Commission Scheme No. 981/1011 (the Scheme).
2. The Council is a principal local authority which has adopted executive arrangements, namely the Leader and Cabinet (England) model. The administration of charities is an executive function and so the Council's functions as Trustee are exercised by Cabinet members. However, in order to separate decision-making on behalf of the Council as local authority from those as trustee, the Cabinet has delegated all decision-making concerning the Charity to a committee of Cabinet, Charity Committee. The Charity's governance arrangements fall within what is permitted both in charity and local government law.
3. The Council is mindful of the difficulties that are presented by the operation of a charity by a local authority trustee and has sought guidance from the Charity Commission in the past and will continue to look to the Commission for general guidance and specific guidance should the occasion arise.
4. In drawing up this summary of the charity's governance arrangements, as required by the Scheme, Charity Commission guidance has been followed.
5. The Charity's governing documents are the conveyance of 8 September 1893 and the Charity Commission Scheme No981/1011 dated 13 January 2011 (the Scheme).

##### Hallmarks of Good Governance

6. The Commission has identified six hallmarks of good governance for a charity as set out below and the Council uses these to demonstrate its governance arrangements

##### The Hallmarks

##### Hallmark 1: Clear about its purposes and direction

An effective charity is clear about its purposes, mission and values, and uses them to direct all aspects of its work.

In order to demonstrate this, the charity:

- ensures that its mission and planned activities are within the purposes set out in its governing document; **L**

**The Charity's objects are set out in the Trust conveyances and the Scheme as follows:-**

**to hold and maintain the Trust land for the common use, benefit and enjoyment of all Her Majesty's subjects and of the public for the time being for ever; and**

**subject to that, such charitable purposes within the area of the Borough of Hastings as the trustee thinks fit.**

**Cabinet has delegated all decision-making in relation to the Charity to the Charity Committee, whose primary function is to administer the Charity on behalf of the Council as Trustee in accordance with the Charity's objects.**

**The Scheme makes provision for a Protector, whose role is to ensure that the Council acts in accordance with its responsibilities as charitable trustee. The Protector attends meetings of the Trustee and has established a working relationship with Council officers giving advice to the Committee.**

- has a clear idea of its mission, and the strategies and steps that it will take to achieve it, set out in written documents that are regularly reviewed, giving the charity focus, direction and clarity;

**Always mindful of the Charity's objects and the confines of charity law, the Trustee, acting through its Charity Committee, will consider how best to achieve the objects of the Charity both in terms of maintenance of existing provision to the public and also in developing new proposals. This consideration will be based on reports from Council officers which will have been consulted upon with the Protector and published in accordance with the usual local authority rules on access to information. There will also have been prior consultation with the Coastal Users Group where appropriate or required under the Scheme (see further below). The Committee will give instructions to officers on the implementation of decisions and they will report back to Committee on progress and further instruction as appropriate.**


**The Charity Committee has devised criteria for the distribution of surplus income by way of grants for charitable purposes in consultation with the Grant Advisory Panel. The Grant Advisory Panel is a requirement of the Scheme and its membership consists of 4 – 8 persons with knowledge and experience of the voluntary and charitable sector, in particular in relation to Hastings. They are appointed by the Council but are independent of the Council in that no councillor, officer, or employee of the Council may be appointed to the Panel. The Committee consults with the Panel on the criteria for making grants, the content and format of grant application forms, advertisement of availability of grant assistance, and individual grant applications. The Committee has to have regard to the recommendations of the Panel when reaching its decisions on grant matters.**

- is able to explain how all of its activities relate to and support its purposes, strategy and mission, and benefit the public;

**All councillors and officers engaged in service to the Charity will have received training on the role and responsibilities of a charitable trustee. The Committee records its decisions and reasons for decisions, demonstrating how the decision is in the best interests of the Charity. These minutes are published. Insofar as decision-making is delegated to officers, records of delegated decisions are completed and the reasons for decisions and how they benefit the Charity form part of the record.**

- regularly reviews whether the charity's purposes as set out in its governing document are up to date and relevant to the needs of its beneficiaries;

**The objects of the Charity are broad and have been reviewed to give greater benefit to the residents of Hastings and St Leonards by the Scheme which makes provision for the distribution of surplus income. Nevertheless, the Trustee will consider whether any changes to the objects are necessary to achieve greater benefit for the public and would consult with the Charity Commission if changes were considered necessary or appropriate.**

- is independent and recognises that it exists to pursue its own purposes and not to carry out the policies or directions of any other body; 

**The Charity is a separate entity from the Council, which is the Trustee for all purposes. The Charity Committee is a committee of the Council's Cabinet. Cabinet recognises that the Committee is independent of Cabinet and likewise Charity Committee is aware that its decisions have to achieve the best interests of the Charity and no other body or person.**

**The Committee has adopted a policy on conflicts of interest which reflects this.**

- considers future sustainability – balancing what is needed now with what will be needed in the future.

**The primary object of the Charity concerns the use, enjoyment and benefit of land. Some of this is open land but there are also buildings and structures and all require appropriate maintenance and provision for repair. The Scheme expressly provides that the Trustee must first apply its income and capital in meeting the proper costs of administering the Charity and managing the Charity's assets including repair and insurance of its land and buildings. The Charity Committee accepts that as a prudent Trustee the Council needs to make provision for the future, whether this is major repair or renovation or an invest to save project. This may mean that in a given year there is no or little surplus to apply to the secondary object of charitable purposes in the Borough of Hastings.**

## **D2. Hallmark 2: A strong board**

An effective charity is run by a clearly identifiable board or trustee body that has the right balance of skills and experience, acts in the best interests of the charity and its

beneficiaries, understands its responsibilities and has systems in place to exercise them properly.

In order to demonstrate this, the charity:

- ensures that the trustee body is constituted in accordance with the governing document; **L**

**The Scheme provides that Hastings Borough Council is the trustee for all purposes of the Charity. As the Council has adopted executive arrangements, the function of the administration of charities is an executive function, which can only be discharged by the Cabinet itself, a committee of Cabinet, an individual executive member or an officer. The Cabinet has agreed to discharge this function through its Charity Committee.**

- identifies the mix of skills, knowledge and experience necessary for the efficient and effective administration of the charity and ensures that the recruitment and appointment of new trustees provides adequate opportunities for re-assessing and achieving that mix;

**The Trustee is a corporation consisting of 32 elected members, with a variety of skills, knowledge and experience. The Council, Cabinet and its committees reach decisions following consideration of reports from professional officers and delegate day to day administration of the Charity to officers with the necessary skills to do this efficiently and effectively.**

**The Charity Committee's membership is taken from executive members who sit on Cabinet. They are necessarily leading members of the authority, whether this be from the main political group on the Council or the opposition group/s.**

- has a trustee body that is the right size for the charity – large enough to include the skills and experience needed to run the charity effectively, but small enough to allow effective discussion and decision making;

**The Council is the Trustee but the Cabinet has delegated the administration of the Charity to the Charity Committee, which is a committee of three Cabinet members, advised by professional officers/advisors.**

- has a clear understanding of the respective roles of the trustee body and staff with role descriptions for trustees and charity officers (such as the Chair and Treasurer);

**The Committee makes decisions on behalf of the Trustee and is advised and served by a number of officers with particular skills and qualification eg accountants, solicitors, surveyors as well as those skilled in the day to day management of the Trust estate and interaction with users of the Foreshore.**

- ensures that the charity's committees, staff and agents have clear and appropriate delegated authority to carry out their designated roles in delivering the charity's purposes. It also has systems in place to monitor and oversee the way in which delegated powers are exercised;

**The Committee has agreed a scheme of delegations to officers and has devised policies to guide officers in the exercise of those delegations. The Committee has formal means of monitoring by the receipt of update and regular reports. The Chair and Members of the Committee have easy access to information and advice from officers outside of the Committee meeting.**

- undertakes all appropriate checks to ensure that a prospective trustee is both eligible and suitable to act in that capacity. (For some charities there may be a legal requirement to seek CRB disclosures for potential (and serving) trustees);

**The membership of the Committee acting on behalf of the Trustee is selected from those with experience of decision-making on financial matters and all matters affecting the benefit of the Trust's beneficiaries. They are chosen with a view to minimising the risk of conflict of interest. CRB checks are not considered appropriate to the Trust objects.**

- identifies and meets the individual induction, training and development needs of trustees and has in place a framework for evaluating board and trustee performance;

**The Council has a robust training and development programme for all councillors, including those who sit on the Charity Committee. This includes the evaluation of individual member skills. There is general training as part of the induction of all new members on the history and functioning of the Foreshore Trust and specialist training on Trustee responsibilities for executive members, particularly those sitting on Charity Committee.**

- ensures its trustees understand that they must act only in the charity's interests and that any conflicts of interest are identified and managed;

**The training received by executive members makes clear the distinction between the Council and the Charity and that, as charity trustee, the Council's primary duty is to act in the best interests of the Charity. The Committee has adopted a policy on conflicts of interest.**

- identifies and complies with relevant legislation and takes professional advice where necessary.

**As part of its training and instruction, the Committee is made aware of the limitations on its ability to act, except in accordance with trust and charities legislation. It receives advice on a regular basis from professional Council officers and, where necessary, for example, to manage a conflict of interest, the advice will be given by an independent advisor.**

### **D3. Hallmark 3: Fit for purpose**

The structure, policies and procedures of an effective charity enable it to achieve its purposes and mission and deliver its services efficiently.

In order to demonstrate this, the charity:

- regularly reviews its governing document to ensure that it is up to date and that the trustees have the powers that they need in order to achieve the charity's purposes and to manage its resources effectively;

**The governing documents of the Charity have been reviewed in 2010. It seems unlikely that further amendment will be required for the foreseeable future but the Committee will keep this under review.**

- takes appropriate steps to protect its reputation in all aspects of its work, especially in its dealings with beneficiaries and others with an interest in the charity;

**The Trustee is a local authority accustomed to ensuring that it acts appropriately, mindful at all times that perception can be as important as fact. It aims to be fair and objective in its dealings with all with an interest in the Charity.**

- implements policies and procedures to ensure that all vulnerable beneficiaries are protected from abuse;
- **The beneficiaries of the Charity form a wide class and this will include vulnerable individuals. The Charity's policies and procedures will reflect the Trustee's commitment to the Equalities Framework to ensure consideration of and access for vulnerable beneficiaries and their health and safety.**
- regularly reviews and assesses the risks faced by the charity in all areas of its work and plans for the management of those risks;

**The Trustee undertakes regular review of risks affecting the local authority and the Charity benefits from the expertise and systems of reporting risk to the Council via its Audit Committee. The Charity Committee considers such reports on behalf of the Charity and instructs officers on actions to be taken to mitigate risks affecting the Charity. The Trustee further protects the Charity from risk by making provision for public liability insurance and buildings insurance.**

- regularly reviews its structures, policies and procedures to ensure that they continue to support, and are adequate for, the delivery of the charity's purposes and mission; this includes policies and procedures dealing with board strategies, functions and responsibilities; good employment practices and the encouragement and use of volunteers;

**The Charity Committee has four programmed meetings in a municipal year and further meetings are convened if required. It receives input from the Protector, the Coastal Advisory Group and the Grant Advisory Panel, as well as from officers. The Committee keeps its policies, functions and responsibilities under constant review as part of this communication with others.**

**The Trustee is a local authority with a large staff establishment. It has its own Personnel and Organisational Development Service which keeps its**

**policies and practices under review. The Trustee has achieved and maintains Investors in People accreditation.**

- recognises, promotes and values equality and diversity in beneficiaries, staff and volunteers, and in all aspects of its activity;

**The Trustee, as local authority, has adopted a Single Equalities Scheme and has reached level 3: "Achieving" of the Equalities Framework by self accreditation.**

**As an employer the Council has achieved the "two ticks" award. The 'two ticks' disability symbol is awarded by Jobcentre Plus to employers who have made commitments to employ, keep and develop the abilities of disabled staff.**

- considers whether collaborations and partnerships (including the possibility of a merger) with other organisations could improve efficiency, the use of funds and the better delivery of benefits and services to beneficiaries.

**The Trustee as a local authority looks to joint working and shared service to improve efficiency and provide resilience to the service. The Charity benefits from any savings achieved.**

- has regard to the impact of its activities on the environment. It considers ways in which it can take an environmentally responsible and sustainable approach to its work which is consistent with its purposes, even when its purposes are not specifically related to the environment.

**The primary object of the Charity is to hold the Foreshore for the common use, benefit and enjoyment of the public. It has, therefore, immediate responsibilities in maintaining this particular environment and it requires its contractors to maintain certain environmental standards. The Trustee is working, as local authority, to reduce carbon emissions and the Charity benefits from this work.**

#### **D4. Hallmark 4: Learning and improving**

An effective charity is always seeking to improve its performance and efficiency, and to learn new and better ways of delivering its purposes. A charity's assessment of its performance, and of the impact and outcomes of its work, will inform its planning processes and will influence its future direction.

In order to demonstrate this, the charity:

- has considered how to identify, measure and learn from the charity's achievements, impacts and outcomes, including the positive and negative effects that it has on beneficiaries, others with an interest in the charity and the wider community;

**Generally, the Trustee as local authority has robust performance management arrangements which seek to ensure that the priorities and targets set are met and corrective action taken to address under-performance where necessary.**

**This performance management includes financial review. The Trustee regularly reports publicly on its progress.**

**The Trustee as local authority advertises and encourages feedback on its services through consultation, user surveys, impact assessments and communication through its website. It also provides direct access through seasonal public offices.**

**Under the Scheme, the Trustee has to consult with the Coastal User Group, which is a group which represents a wide range of interests along the Foreshore. The Committee consults with the Coastal User Group on such matters as the standards or specifications for the maintenance of the Charity's land; the Charity's policy on events and permitted usage and exceptions to the policy; the Charity's policy on how it exercises its powers under the Hastings Borough Council Act 1988 or otherwise to manage, let, sell or otherwise dispose of the Charity's land, and any exception to that policy. The Committee has to have regard to the recommendations of the Coastal User Group when reaching its decisions.**

**A further source of feedback for the Trustee is the Annual Public Meeting. This meeting is a requirement of the Scheme and the Trustee must give not less than 28 days' notice of the meeting in a newspaper circulating in the area of the Borough of Hastings. The notice is to include the business to be transacted which must include presentation of the Trustee Annual Report and accounts for the last financial year. At this meeting the Trustee has to make available to the public the summary of the Charity's governance arrangements together with a copy of its conflicts of interest policy ( [link to both documents](#)).**

- sets achievable targets and indicators against which success and improvement is measured and evaluated based on the purposes of the charity, the needs of its beneficiaries, the quality of its services and the resources available;

**The Trustee as a local authority participates in and has been awarded the European Seaside / Quality Coast Award for the last ten years. The scheme independently sets and measures standards and quality of service including safety, cleanliness, environmental activity, facilities and management.**

- welcomes and acts upon feedback (positive as well as challenging) from its beneficiaries and other people with an interest in the charity about the services it provides and the areas where improvements could be made;

**The Trustee as local authority actively seeks the opinions of stakeholders on its performance and impact through the Coastal User Group and has developed a management plan to support the delivery of improvements.**

- looks at and assesses innovative and imaginative ways of working towards achieving its purpose and aims;

**The Trustee as local authority has formed strong relationships with local community organisations to improve facilities including the provision and joint management of a Multi Use Games Area with the Residents Association.**



- identifies emerging trends in the environment in which it operates and uses this information as part of its planning processes;

**The Trustee as local authority benefits from and responds to local, regional and national research and information to assist in the planning and development of its purpose. Examples of this process include the emerging changes in Bathing Water standards and the requirement to work closely with the Environment Agency and Water Companies to respond to those changes.**

- identifies and uses opportunities to influence the environment in which it works to be more conducive to its mission and purposes, following the law and good practice when campaigning or lobbying;

**This is of limited relevance to the Charity. However, the Trustee as local authority is a member of the National Water Safety Forum, Beach Advisory group which acts as a consultative and advisory body to government.**

- is not complacent but is engaged in a process of continual improvement, using techniques and tools best suited to its size and activities, such as recognised quality systems and benchmarking, in order to improve its own future performance;

**The Trustee as a local authority shares information and systems through benchmarking with other local authorities. The support of systems and appraisal is actively sought from recognised organisations to improve performance e.g. Royal Society for the Prevention of Accidents, Royal National Lifeboat Institution, Royal Life Saving Society and Maritime and Coastguard Authority.**

- is ready to share good practice with others.

**The Trustee as a local authority is a member of the South East Beach Management Group, National Water Safety Forum Beach Advisory Group and South East Coastal Group which all act to share best practice on a range of activities and functions**

#### **D5. Hallmark 5: Financially sound and prudent**

An effective charity has the financial and other resources needed to deliver its purposes and mission, and controls and uses them to achieve its full potential.

In order to demonstrate this, the charity:

- has policies to control and manage its reserves, investments and borrowing, taking professional advice where needed;

**The Council has a treasury management strategy that is agreed by Council on an annual basis. The Council fully adheres to the CIPFA Code of Practice on Treasury Management and, as such, will report regularly to the Charity Committee on investments, borrowing and reserves. Specialist advice is taken as necessary.**

- integrates financial planning with wider organisational planning and management, ensuring that funds are available when the charity needs them and are used in the most effective way to the benefit of the charity;

**The Council's financial management systems enable the Charity Committee to be fully informed of financial planning issues on a timely basis and in accordance with proper practices.**

- ensures financial sustainability by managing cash flow and monitoring and reviewing financial performance during the year, taking timely corrective action where needed;

**The Council produces monthly monitoring reports for all of its services and this applies also to the Foreshore Trust activities. Quarterly reports with a financial position statement are taken to the Charity Committee for consideration.**

- considers the sources of its income and has a strategy in place to raise the funds it needs - diversifying its sources of income as far as possible;

**The Foreshore Trust has well established sources of income from car parking and property. The Charity Committee reviews fees and charges and opportunities for new income streams on an annual basis as part of its budget setting process.**

- reviews its fundraising strategies and activities to ensure that they comply with good-practice standards, taking account of any relevant ethical issues;

**This is of limited relevance to the Charity. However, the Council operates ethically at all times and in compliance with legislation, regulation and good practice. This is applied in the same way to the operation of the Charity, having particular regard charity law and practice and the Charities Statement of Recommended Practice.**

- is aware of the financial risks involved with existing and new ventures and manages the risk of loss, waste and fraud by having robust financial controls and procedures in place;

**The Council operates within a comprehensive risk management environment. Proposals for significant new business ventures require a properly presented business case. The Council's existing Financial Rules and regulations apply equally to the Charity's activities subject to any particular further requirement or limit imposed by the Charity Committee under its own scheme of delegations to officers.**

- structures the charity's activities in a tax efficient way and minimises the operational risk to the charity from trading activities;

**The Council structures the Charity's activities in a tax efficient way taking specialist advice as necessary.**

- prepares its Annual Report and accounts in accordance with good practice requirements, and fulfils the legal requirements for filing in a timely fashion.

**The Trustee prepares its Annual Report and accounts in accordance with good practice, in particular the Charities Statement of Recommended Practice. Initially, the Trustee will use the services of external advisors in relation to the finalisation of the Charity's accounts. The accounts will be audited by auditors other than those who audit the Council's accounts. **

#### **D6. Hallmark 6: Accountable and transparent**

An effective charity is accountable to the public and others with an interest in the charity (stakeholders) in a way that is transparent and understandable.

In order to demonstrate this, the charity:

- complies with its legal obligations (and best practice), as set out in the Statement of Recommended Practice (SORP), to produce annual accounts and a report which includes an explanation of what the charity has done for the public benefit during the year;

**The Trustee keeps separate accounts from the local authority's accounts, complying with legislation and the Charities SORP. Initially, the annual accounts are prepared by external accountants and the accounts are audited by auditors who are not the local authority's auditors. The Charity Committee agrees the Accounts and Trustee Annual Report at a public meeting.**

- explains in its Annual Report the extent to which it has achieved its charitable purposes in a way that people with an interest in the charity can understand;

**The Annual Report sets out a clear account of what the Charity has achieved during the year and the report and accounts are presented for discussion at the Annual Meeting which has to be held within 6 months of the end of the financial year.**

- has well-publicised, effective and timely procedures for dealing with complaints about the charity and its activities. These should explain how complaints and appeals can be made, and give details of the process and likely timescales;

**The Trustee operates a corporate complaints procedure which is available to deal with complaints regarding the administration of the Charity and its activities.**

- can show how it involves beneficiaries and service users in the development and improvement of its services; the contribution may have been by way of the appointment of beneficiaries as trustees or their involvement through discussion, consultation or user group input;

**The Trustee consults with and has regard to the recommendations of the Coastal Users' Group on the matters set out in the Scheme and on any significant proposals coming forward for consideration. It also consults with and has regard to the recommendations of the Grant Advisory Panel when considering making grants from the Charity's surplus income. The Trustee, as local authority, also regularly consults residents on its services**

**and feedback through these processes may influence the Charity's services where compatible with the Charity's objects. Reference has already been made to the value of the Annual Public Meeting.**

- has a communications plan which ensures that accurate and timely information is given to everyone with an interest in the work of the charity, including the media, donors and beneficiaries.

**The Charity has a communications plan which includes the publication of agenda and reports for meetings of the Charity Committee and the publication of minutes. These are freely available to the public under the access to information rules which govern local authority information. The documents are accessible on the Council's website or in hard copy from the Borough Solicitor. General information and news about the Charity and its activities can be seen on the Charity's webpage (link). Press releases are presented where appropriate. The Protector has his own website which has a considerable amount of background information and documentation of public interest (link).**