

APPENDIX A

HASTINGS AND ST LEONARDS FORESHORE CHARITABLE TRUST

SCHEME OF DELEGATIONS TO OFFICERS FROM CHARITY COMMITTEE

Background

1. Hastings and St Leonards Foreshore Charitable Trust is a registered charity no. 1105649 (the Charity).
2. Hastings Borough Council is the Trustee for all purposes by virtue of a Charity Commission Scheme dated 13 January 2011.
3. The Council's function as charity trustee in relation to the Foreshore Trust has been delegated by Cabinet to its Charity Committee.
4. The Council, in common with other local authorities, has a scheme of delegation to officers agreed under Section 101 Local Government Act 1972 for council functions and under Section 15 Local Government Act 2000 for executive functions. The scheme of delegations is contained in Part 8 of the Constitution and is entitled "Standing Instructions to Authorised Officers".
5. Part 8 of the Constitution is based upon an assumption of full delegation to the Chief Executive and his nominees unless excepted as set out in Part 8 of the Constitution and Financial Rules. In practice, unless excepted, the Chief Executive authorises the relevant corporate director or head of service as his nominee.
6. The fact that an officer can act under delegated authority does not mean that the officer always chooses to exercise that delegated authority and the Chief Executive or his/her authorised nominee may ask the relevant decision-making body eg Cabinet to make the decision itself.
7. Decisions made by officers under delegated authority are recorded and kept on file by individual Directorates/Services.

Charity Committee delegations

8. It is necessary to delegate decision-making to officers to achieve the efficiencies and effectiveness required of a busy local authority. If decisions could only be made by Cabinet or committee, the operational functionality of the Council would be unduly restricted to the detriment of service users. The Council and Cabinet have, therefore, agreed wide delegation to officers subject to observation of Council and Cabinet policies and budgetary provisions.

9. As the primary object of the Foreshore Trust is to hold the foreshore for the common use, benefit and enjoyment of Her Majesty's subjects and the public generally, operational decisions must be taken on a daily basis and it would be impractical for all such decisions to be made by the Charity Committee, which is a meeting subject to the rules on access to information and, therefore, publicity requirements before a decision can be made. It is, therefore, desirable in the interests of the Charity that there should be appropriate delegation of decision-making to officers.
10. However, there have been public concerns regarding the transparency of decision-making in relation to the Charity and so the Charity Committee has considered carefully the extent of delegation to the Chief Executive and his nominees.

Delegation to the Chief Executive and his authorised nominees

11. Operation and management of the Foreshore. The Charity Committee agrees its plan and budget for the new financial year and, provided any decision is in accordance with the plan and budget agreed by Charity Committee and is in the best interests of the Charity, day to day operation and management of the Foreshore Trust and its assets is delegated to the Chief Executive and his/her authorised nominees. This is subject to certain exceptions:-

Land

- any decisions relating to the proposed disposal of charity land or an interest in charity land are to be made by the Charity Committee strictly in accordance with Section 36 Charities Act 1993 on advice from appropriate professional advisors;
- any decision relating to the proposed acquisition of land to add to the Charity's land estate or of an interest in or over other land;
- any proposed termination of an interest held by a third party in the Charity's land;
- any proposal the likely effect of which is to affect income generation from the Charity's land.

Use of the Charity's land for events

- proposals for events or activities which are outside of the events policy agreed by the Charity Committee having consulted with and had regard to the recommendations of the Coastal Users' Group;

Grants for charitable purposes

- proposals for distribution of surplus income by means of grants for charitable purposes, concerning both criteria for application and individual grants, are agreed by Charity Committee following consultation with and having regard to the recommendations of the Grant Advisory Panel.

Specification for and the award of contracts affecting the Charity

- proposals for the award of a new service contract require consultation with the Coastal Users Group on the specification for the contract and the Committee is to have regard to the recommendations of the Group in agreeing the specification for a new contract.
- renewal and extension of existing service contracts
- contracts for works or the supply of goods with a value of £10,000 or more

Signing and sealing of documents on behalf of the Charity

12. The Borough Solicitor or her/his nominee is authorised to sign and seal documents for and on behalf of the Trustee using the Council's seal, to give effect to the decisions of the Charity Committee or officers acting under this Scheme of Delegation.

Urgency provisions

13. In the event of urgency, which shall be determined by the Monitoring Officer, i.e. when due to time constraints it is not possible for the decision on a matter, which is reserved to Charity Committee to be taken by the Charity Committee in time, without convening a special meeting of Charity Committee, the Chief Executive or his/her nominee may take the decision, in consultation with the Chair, members of the Committee and the Protector. The decision and the reasons for urgency shall be reported to the next meeting of the Charity Committee.

Generally

14. The Chief Executive or his or her nominee acting under these delegations must be mindful they are acting on behalf of the Charity and not the Council and ensure that at all times they act in the best interests of the Charity.
15. The Chair is made aware of all issues of significant public interest or sensitivity before taking action.