

APPENDIX A

HASTINGS AND ST LEONARDS FORESHORE CHARITABLE TRUST (the FORESHORE TRUST or the CHARITY)

CRITERIA FOR THE MAKING OF GRANTS

Background

1. The Foreshore Trust is a registered charity and its objects are stated in the Charity Commission Scheme no.981/1011 dated 13 January 2011 (the Scheme) as follows:-
 - (1) To hold and maintain the charity's land for the objects set out in the trusts of the charity, namely for the common use, benefit and enjoyment of all Her Majesty's subjects and of the public for the time being for ever; and
 - (2) Subject to sub-clause (1) above, such charitable purposes within the area of the Borough of Hastings as the trustee thinks fit.
2. Hastings Borough Council is the Trustee of the Foreshore Trust for all purposes by virtue of the Scheme.
3. The Scheme states that the Trustee must first apply the Charity's income and capital, if appropriate, in meeting the proper costs of administering the Charity and of managing its assets (including the repair and insurance of its land and buildings). It is only after these and then it must be in the furtherance of the objects of the Charity and for no other purpose. costs have been met, that the Trustee can distribute surplus income
4. That is not to say that all surpluses after meeting these costs will be available for distribution. Prudent management of a charity's resources includes a policy for reserves based on a realistic assessment of the particular needs of the charity and commensurate with the scale and complexity of the charity's affairs.

Context of the extended objects agreed by the Charity Commission

5. The objects of the charity include charitable purposes within the Borough of Hastings. In reaching their decision to make the Scheme, "The Board Members noted that the objects required the Charity to hold the foreshore for apparently wide charitable purposes, and that, while the beneficiaries were the public at large, in practice and in spirit the gift would inevitably benefit residents of and visitors to Hastings and St Leonards. They also noted the Hastings Borough Council Organisational Assessment 2009 which explains that Hastings "suffers significant problems regarding deprivation, with over a third of

residents living in neighbourhoods which make up the most deprived fifth nationally.” The Board Members considered that allowing surplus income to be applied only to charities concerned with the foreshore would be too restrictive, in light of those social and economic circumstances.

6. Conclusion. The Board Members concluded that appropriate objects for surplus income would be for such wide charitable purposes within the area of the Borough of Hastings which would benefit the inhabitants and visitors to Hastings and St Leonards as the trustee of the Charity thinks fit.” (Decision notice dated June 2010)
7. The area of Hastings Borough Council is ranked 19th of all local authorities in England for its average deprivation score in the Index of Multiple Deprivation (IMD) 2010. The town has two Lower Super Output Areas (LSOA) that are within the worst 1% in the country for deprivation (in Baird and Tressell wards), and thirteen other areas ranked within the 10% most deprived. Twenty-eight percent of LSOAs in Hastings fall within the 10% most deprived in the country, and 45% fall within the 20% most deprived. The domain which shows the greatest evidence of deprivation is health deprivation and disability.
8. This position is reflected in the Hastings Borough Council Corporate Plan for 2010/11 as follows: - “Hastings and St Leonards is a town where some local people experience many difficulties and high levels of deprivation. However, this is contrasted with a town with a strong sense of community identity, rich cultural and creative life, and an active voluntary and community sector. Public sector bodies, businesses, and voluntary and community bodies are working together to ensure that the quality of life and life chances of all local people are improved so that everyone can benefit from the best our town has to offer.” It is unsurprising that the Council’s first priority is:- “Narrowing the Gap – We remain the most deprived district in the South East and need to bring quality of life for people in the most deprived parts of Hastings & St Leonards up to those of the rest of the town, and the town up to county and national averages.”
9. The Borough has been the recipient of grant funding which the Council in turn directed towards other agencies in the public, private and voluntary sector for the purpose of working towards achieving the Council’s priority of narrowing the gap. Some of this funding derived from Area Based Grant, which has now come to an end. The grant funding agreements, which require outcomes that can be monitored, came to an end in March 2011. Other funding, known as Community Partnership Funding, is met from the resources of Hastings Borough Council.
10. As a result of the Coalition Government’s Comprehensive Spending Review, the available funding to the voluntary sector is much reduced partly by the absence of Government funding targeted at areas suffering particular deprivation and partly by the overall reduction in

the support grant to Hastings Borough Council, which has left Hastings as one of those authorities hardest hit by the funding cuts.

11. Inevitably, such reduction in resources has an impact on the funds available to distribute to the voluntary sector and agencies will look to other sources of funding where either their funding from the local authority is ceased or reduced or there is greater demand from charities for funding.

What are charitable purposes?

12. The Charity Commission guidance is that “The Charities Act 2006 defines a charitable purpose, explicitly, as one that falls within the following list of thirteen descriptions of purposes **and** is for the public benefit
 - The prevention or relief of poverty
 - The advancement of education
 - The advancement of religion
 - The advancement of health or the saving of lives
 - The advancement of citizenship or community development
 - The advancement of the arts, culture, heritage or science
 - The advancement of amateur sport
 - The advancement of human rights, conflict resolution or reconciliation or the promotion of religious or racial harmony or equality and diversity
 - The advancement of environmental protection or improvement
 - The relief of those in need, by reason of youth, age, ill-health, disability, financial hardship or other disadvantage
 - The advancement of animal welfare
 - The promotion of the efficiency of the armed forces of the Crown, or of the efficiency of the police, fire and rescue services or ambulance services
 - Any other purposes currently recognised as charitable and any new charitable purposes which are similar to another charitable purpose
13. To be a charitable purpose the purpose has to fit within one or more of the descriptions above and has to be for the public benefit. This has to be established, except in cases where the purpose is for the relief of poverty, or the advancement of education or the advancement of religion, where the purpose is presumed to be in the public interest unless the contrary is shown. The Trust has to be of a public character ie it must be for the benefit of the community or an appreciably important section of the community. There are two aspects to this, firstly whether the purposes of the trust confer a benefit on the public or a section of it, and secondly, whether those eligible to benefit constitute the public or a section of it. The public benefit test is usually satisfied by showing that tangible and objective benefits will ensue from the particular purpose. This is not always possible, of course, and in cases where benefits are intangible, a

court will expect “approval by the common understanding of enlightened opinion”. A purpose which is unlawful cannot, therefore, be for the public benefit and charitable.

14. On the second part of the question ie whether those eligible to benefit constitute the public or a section of it, those who may benefit must not be a particular class of individuals eg employees of a particular company. The class of persons who may benefit need not be large but it should not be delimited by arbitrary criteria unrelated to the particular purpose.
15. To be charitable, the objects of the trust must be exclusively charitable. If a main object is not charitable then the trust will not be charitable even though it is for the public benefit. However, collateral benefits to non-beneficiaries do not affect the charitable status of a trust where the objects are exclusively charitable.
16. In this context, the functions of the local authority usually benefit the public but they are not exclusively charitable and so grant funding is not available to meet the Council’s obligations. However, the Council itself makes grant funding available to charities in the Borough under its community partnership funding and there may be eligibility for grant funding from both the Council and the Charity.
17. The Council’s community partnership funding scheme prescribes eligibility by reference to the Council’s priorities. Whilst there may be some commonality between the Council’s priorities and charitable purposes, the Charity’s grant criteria are not based on the Council’s priorities but upon charitable purposes as outlined above. The Charity’s grant fund might benefit those who are not eligible under the community partnership funding but are delivering charitable services to the public in the Borough.
18. Another distinction from the community partnership funding scheme is that the determination process takes into account how closely a proposal matches the Council’s priorities, plus the impact that the proposed activities would have in terms of outcomes. The service level agreement provides for monitoring of outcomes. It has been a move away from traditional grant making and there may be some worthy groups or organisations which have been unable to meet the rigours of the regime even if they are eligible with purposes that coincide with the Council’s priorities. Whilst there has to be accountability on the part of recipients of grant funding from the Charity, the level of monitoring will be proportionate.
19. The principal objective of the grant funding by the Charity is to make a real impact on residents’ lives in the Borough.

20. This may be achieved in small ways as well as on a larger scale and the Charity acknowledges this so that it will maintain and administer a small grants fund.

Grant Criteria

21. The charitable purposes set out in the Charities Act 2010 number 13 separate areas, the final purpose having the effect of widening the ambit of charitable purpose even further.
22. The Trustee, on behalf of the Charity, wishes to focus grant availability to those charitable purposes which will have the most impact and satisfy the greatest need in the Borough. Having regard to the thoughts of the Commission as quoted at paragraphs 5 and 6 above, the charitable purposes should be wide but against the backdrop of the particular deprivation present in the Borough. Whilst certain wards suffer particularly high deprivation and their need is great, it is important to remember that the power to award grants extends to the whole of the Borough and that application for grants for charitable purposes in other less deprived wards will be welcomed and considered by the Committee on their merits as with all other applications.
23. The Trustee has decided that generally the focus of grant making will be on the following areas of charitable purpose:-
- The prevention or relief of poverty
 - The advancement of education
 - The advancement of health or the saving of lives
 - The advancement of citizenship or community development
 - The advancement of the arts, cultures, heritage or science
 - The advancement of amateur sport
 - The advancement of human rights, conflict resolution or reconciliation or the promotion of religious or racial harmony or equality and diversity
 - The advancement of environmental protection or improvement
 - Any other purposes currently recognised as charitable and any new charitable purposes which are similar to another charitable purposes
24. The Charity Commission publishes extensive guidance on charitable purposes and the Trustee will have regard to this guidance as well as the recommendations of the Grant Advisory Panel when reaching decisions on individual grant applications.

