

Charity number: 1105649

Hastings and St Leonards Foreshore Charitable Trust

Trustee's report and financial statements

for the year ended 31 March 2012

Hastings and St Leonards Foreshore Charitable Trust

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Hastings and St Leonards Foreshore Charitable Trust

Also known as the "Foreshore Trust"

Report of the trustee for the year ended 31 March 2012

Information

1. Trustees

Hastings Borough Council (Trustee from 13 January 2011)
Town Hall, Hastings, East Sussex, TN34 1QR

The Trustee acts through its Charity Committee, whose members are

Councillor Paul Barlow (Chair - retired from the Council and Committee on 6 May 2012)

Councillor John Hodges (Chair - appointed 17 May 2012)

Councillor Jay Kramer

Councillor Robert Cooke (retired from the Committee 16 May 2012)

Councillor Andrew Gurney (appointed 17 May 2012)

2. Charity number

1105649

3. Accountants and Auditors

Manningtons
7 Wellington Square
Hastings
East Sussex
TN34 1PD

4. Protector

Christopher May MA, FCA
Froghole Oast House
Crockham Hill
Edenbridge
Kent
TN8 6TD

5. Bankers

Co-operative Bank
PO Box 101
1 Balloon Street
Manchester M60 4EP

Hastings and St Leonards Foreshore Charitable Trust

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6. Structure, Governance and Management

Overview

The governing documents of the Charity are a conveyance from the Crown to Hastings Corporation dated 8 September 1893 and Charity Commission Scheme ref. no, 981/1011 made on 13 January 2011 (the 2011 Scheme).

The 1893 Conveyance provides that the length of foreshore between Ecclesbourne Glen and Grosvenor Gardens shall be held for the common use, benefit and enjoyment of Her Majesty's subjects and the public generally for ever. Later conveyances in 1925, 1933 and 1934 conveyed the remainder of the foreshore to the Hastings Corporation on the same Trusts.

The Hastings Borough Council Act 1988 varies the Trusts to permit certain uses on delineated areas of land and for the Council to charge for that use, whether provided by the Council itself or by another on the Council's behalf.

The 2011 Scheme extended the objects of the Charity to include such charitable purposes within the Borough of Hastings as the Trustee thinks fit.

The 2011 Scheme had the effect of revoking the Charity Commission Scheme dated 22 March 2006 which appointed independent Trustees and Council nominated Trustees and appointing Hastings Borough Council as the Trustee for all purposes. This report is prepared by the Trustee as required under the 2011 Scheme.

Significant changes

Following the Borough Council elections in May 2012 there have been two new appointments to the Charity Committee of Cabinet. Councillor John Hodges, who has been appointed chair, and Councillor Andrew Gurney. Councillor Robert Cooke and the previous chair Councillor Paul Barlow have stepped down.

Governance

- i) The Trustee, Hastings Borough Council, is a principal local authority established under the Local Government Act 1972 and, as such, has corporate status. As a local authority, the Trustee acts through decisions of elected members and delegations to committees, sub-committees and officers. The Local Government Act 2000 introduced executive decision making and the legislation provided for a split between decisions which are reserved to the Council, to the Executive or according to local choice. Where the function in question is not reserved to Council or a local choice function, the default provision in the legislation is that the function and decision-making relating to it are the preserve of the executive. This represents the position regarding the Council's function or power to administer charities, that is to say that the administration of charities is an executive function and so only the Cabinet, a committee of Cabinet or officers acting under delegations from Cabinet are legally competent to make decisions relating to the Charity.

This means that for the Foreshore Trust, the Council as Trustee acts through the Charity Committee of Cabinet.

- ii) The Protector

When considering the request of the former independent Trustees to appoint the Council as Trustee, the Commission was concerned regarding the potential conflict of interest between the Council's position as charitable Trustee and as local authority and how to address this. Part of the solution was the requirement in the 2011 Scheme for the appointment of a Protector, who is required to be a qualified accountant. The present Protector is Christopher May MA, FCA, who was appointed as first Protector for a three year term of office. The job of the Protector is essentially to act as whistle blower and watchdog against the Council acting in breach of trust and to guard against situations where a conflict of interest is not being managed properly. As a chartered accountant he is equipped to scrutinise the Council's charity accounts. The Protector is required to report any matters of serious concern to the Charity Commission and must prepare an annual report on his activities for inclusion in the Charity's Annual Report.

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Report of the trustee for the year ended 31 March 2012

Consultation

The 2011 Scheme reflects the responses to consultation on the draft Scheme and makes provision for consultation in two areas of the Charity's operation.

i) Coastal Users Group

The Trustee is required to consult with and have regard to the recommendations of the Coastal Users Group in relation to certain matters, namely:-

- the standards or specifications for the maintenance of the charity's land
- the Charity's policy relating to events and activities to be held on the Charity's land and any event/activity outside that policy
- the Charity's policy relating to the exercise of any power under the Hastings Borough Council Act 1988 or otherwise to manage, let, sell or otherwise dispose of the Charity's property
- the exercise of the powers under the previous bullet otherwise than in accordance with the agreed policy.

The Coastal Users' Group was an existing consultative group set up by the Council as local authority to consult with interested parties in relation to matters affecting the front line of the Council's area. It became the Coastal Advisory Group required by the 2011 Scheme after adopting a formal constitution and rules for membership in early 2011. The minutes of its meetings, in so far as they relate to Foreshore Trust matters, are included in the reports submitted to each Charity Committee meeting.

The Coastal Users Group meets before each Charity Committee meeting (four times a year) to consider and comment on reports being submitted to the Charity Committee. During 11-12, the CUG was consulted on the Foreshore Trust Business Plan, the White Rock Baths, car parking, new seafront play areas, decorative lighting, seafront grounds maintenance and aspects of beach activity including the cycle route, trading kiosks and activity zoning.

ii) Grant Advisory Panel

The new object to distribute surpluses, after meeting the costs of administering the Charity and managing its assets (including the repair and insurance of its land and buildings), through grants for charitable purposes in the Borough, is subject to consultation with the Grant Advisory Panel. The 2011 Scheme provides that consultation is to take place concerning the grant criteria, grant processes and grant determinations. The Charity Committee made five appointments to the Grant Advisory Panel at its meeting on 29 March 2011 and agreed the constitution of the Panel. The members of the Panel are independent of the Council and are required to have knowledge and experience of the voluntary and charity sector, particularly in Hastings.

The Grants Advisory Panel successfully concluded the process of prioritising the first year's round of grant making, resulting in the payment of grants totalling £49,945 during 2011/12

As a result of a request for an ad hoc grant, after the balance sheet date, the Panel and officers will be jointly working on criteria to process these requests.

Hastings and St Leonards Foreshore Charitable Trust

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Delegation to Officers

At its first meeting on 25 January 2011, the Charity Committee agreed a Scheme of Delegation to Officers. From 1 April 2012 the Scheme of Delegations has required amending, replacing the Chief Executive with appropriate Director and his/her nominee as a result of a senior management restructure. The new Scheme of Delegations follows the pattern of the Council's Scheme of Delegations to Officers, in that the appropriate Director or their duly authorised nominee is authorised within the plan and budget agreed by the Charity Committee to undertake the day to day operation and management of the Charity. The authority is general and subject to certain exceptions including the disposal of land, use of the Charity's land for events outside of the agreed policy, grants for charitable purposes and specification for and the award of contracts affecting the Charity, which are all subject to consultation with the two consultative groups and then decision of the Charity Committee. The Scheme of Delegation emphasises that the Director or his nominee acting under the delegations must be mindful that 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.

The officers the Director authorises for most purposes affecting the Charity's day to day operation and management are:-

- Virginia Gilbert, Head of Leisure and Amenities Services
- Peter Grace, Head of Finance
- Amy Terry, Estates Manager
- From April 2012 Christine Berkshire-Jones the Chief Legal Officer and the Authorised Signatory on behalf of the Charity is Jane Hartnell.
- Until 31 March 2012 Jayne Butters the Borough Solicitor and Monitoring Officer

In case of actual or potential conflict of interest for officers, independent advisors are instructed on behalf of the Charity e.g. surveyors, solicitors.

7. Training and Induction for the Trustee

On 6 June 2012 following the elections, members, officers and the Protector attended a course which provided training on the history of the Trust, the constitutional documentation of the Trust and how to put those into effect. It was well received by all attendees. In order to keep new councillors advised on the history and their awareness raised it is intended that this briefing will be included in the induction training for new members of the Council.

All training has been offered to all members of the Council to raise awareness and to keep them advised.

8. Risk Management

Following the transfer of the trusteeship to the Council a risk register has been compiled. Initially this identified the key financial risks facing the Trust, but continues to be developed to include the identification of all significant risks (it also includes the identification of relevant controls to mitigate and responsibilities).

9. Objectives

The 2011 Scheme states the objects of the Charity to be:-

- i) 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
- ii) subject to i) above, such charitable purposes within the area of the Borough of Hastings as the Trustee thinks fit.

The Scheme expressly provides that income and capital are first to be applied in meeting the proper costs of administering the Charity and of managing its assets including the repair and insurance of its land and buildings. After payment of these costs, the Trustee must apply the remaining income in furthering the objects of the Charity.

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Report of the trustee for the year ended 31 March 2012

10. Achievements and Performance

This has been the first full financial year for the Council as Trustee of the Foreshore Trust. The Charity Committee met four times during the year and the main business has been:

- adoption of the Trust's first five-year Business Plan
- adoption of the criteria and procedures for small grant applications (up to £5,000)
- awards of the first round of small grants
- opening the seafront cycle route extension from the Pier to the Stade
- approval of plans for a new seafront play area (opened in May 2012) and proposed exercise facilities
- support for a commercial proposal to bring the former White Rock Baths back into use
- investment in investigations, rubble and asbestos clearance and remedial works to the structure of the White Rock Baths
- contribution to new seafront decorative lights, the 'Sticks of Rock'
- approval of the inclusion of foreshore grounds maintenance within the Council's joint procurement of a new 10 year grounds maintenance contract with Rother District Council and Amicus Horizon
- approval of the 2012 arts and performance programme for the Stade Open Space
- agreement of the budget for 2012/13 and financial report

In addition, whilst the Council undertook the role as Trustee from January 2011, it has been operating and managing the Foreshore and its assets without interruption over many years. The operations include:

- keeping the Charity's land safe and clean
- operating the Charity's car parks
- managing its tenanted premises
- arranging and facilitating events on the Foreshore
- undertaking routine maintenance and repair

Stade Development

The Stade area is partly in Council ownership and partly in Trust ownership. The development is the combination of the Jerwood Gallery and the Stade Open Space, community facilities (the Stade Hall and public toilets with exceptional disabled accommodation) and Stade café. The Jerwood Gallery, on Council owned land, is privately funded but the other facilities result from the Council's application for funding from the Commission for Architecture and the Built Environment (CABE), South East England Development Agency (SEEDA), East Sussex County Council, with significant funding also being provided by Hastings Borough Council. Management of the Stade Open Space (approximately 60% in Trust ownership) and the Stade Hall (wholly Trust owned) is being undertaken by the Council in the short term until a community organisation is established and takes over the operation. In summer 2012, the 'Stade Saturdays' programme of cultural events kick-started the use of the Open Space as a community and cultural venue.

White Rock Baths

The Trust is keen to see the use, or at least the partial use of the White Rock Baths site. To this end it had to 31 March 2012 spent £51,732 on the removal of rubble and asbestos and agreed to spend a further £220,000 to help facilitate the regeneration of this key site on the foreshore.

Seafront Play Area

A new seafront playground, funded by the Trust, has been built adjacent to the Mini Golf area. Local residents and school children were heavily involved in the planning and design of the playground which has become a popular seafront spot since its recent opening.

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Renewal of Leases

Following completion of the improvement works to the mini golf/adventure golf, including the construction of a volleyball court, the lease to Arnold Palmer Putting Courses Limited (APPC) was renewed on 7 October.

We are continuing discussions with Stade Developments (which includes Flamingo Park) regarding their proposals for a lease renewal.

The Management Agreement for the Pelham Play Area was completed in July.

11. Public Benefit

The objects of the Charity express clearly that the Foreshore is to be held for the benefit of Her Majesty's subjects and the public generally for ever. Where the land is beach and beach alone, the objects are achieved by ensuring that the public have free and safe access to the Foreshore. However, maintaining land in proper condition has a cost and the Charity requires an income to meet its expenditure. The Hastings Borough Council Act 1988 varied the original Trusts to permit certain uses on defined areas of the Trust's land. For example, paid parking was permissible at Rock a Nore Car Park and at Pelham Car Park and leisure facilities were permitted in the Stade area. These variations to the Trust powers enabled the generation of income to meet the costs of maintaining the Foreshore. The uses permitted under the Act, however, are seen as complementary to the Trust objects and the Trustee will exercise its powers under the Act to satisfy the requirement for the benefit to the public.

So far as is possible and subject to the uses permitted under the Act, the aim of the Trustees is that the Foreshore should be accessible by all members of the public who wish to visit it. At the same time, part of the Foreshore is a working beach and so health and safety considerations apply.

The 2011 Scheme included a new object to distribute surpluses as grants for charitable purposes within the Borough of Hastings. The first round of small grant distribution took place in 2011-2012 and will be repeated annually as resources permit.

The Trustee has also made a commitment to undertaking considerable capital works to assets such as the former White Rock Baths which requires considerable capital outlay in order to start to bring it back into sustainable use.

There will be different views on how the public benefit is best achieved and the Charity Committee will continue to consult with the Coastal Users' Group on proposals for the future of the Foreshore and specifications and standards of maintenance and with the Grant Advisory Panel on the grant criteria and grants processes.

This section should be read in conjunction with the preceding paragraph (Achievements and Performance).

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Report of the trustee for the year ended 31 March 2012

11. Financial Review

The audited accounts are attached to this annual report. They are in the same format as in previous years and, once again, have received an unqualified audit opinion.

The Trust's main sources of income remain that of car parking fees and charges and rental income from property. The expenditure that the Trust incurs is as a result of providing the car parks e.g. operating costs, and the costs of maintaining and developing the foreshore.

Investments - The Trust has significant cash balances. At 31 March 2012 these were invested as follows:-

CCLA Investment Management - £1,271,563

Co-op Bank- £532,050 (the Trust's Bank Account)

Prior to the transfer of the Trusteeship in January 2011, the majority of the activities of the Trust were undertaken by the Council on the Trust's behalf. There were a number of areas where the Trust incurred expenditure directly. These included the appointment of external legal and financial advisors, accountants and auditors.

Where the Council has been operating on the Trust's behalf before 13 January and subsequently after 13 January 2011 the Council's standing orders and financial rules and regulations have always applied in order to ensure proper financial management practices and procedures are followed.

The following table compares the major elements of the budget to the actual income and expenditure:-

<i>Statement of Financial Activities</i>	Budget Estimate £000's	Revised Budget £000's	Actual Outturn £000's
<i>Incoming Resources</i>			
Investment Income	8	10	11
Income from Charitable activities	1,050	1,019	1,039
	<hr/>	<hr/>	<hr/>
	1,058	1,029	1,050
<i>Resources Expended</i>			
Charitable Activities	794	772	760
Governance Costs HBC	50	50	64
Governance Costs (Other)	27	29	22
	<hr/>	<hr/>	<hr/>
	871	851	846
<i>Surplus before Grants and Reserve Funded items</i>	187	178	204
Grants	50	50	65
Projects and Other Expenditure	14	114	107
	<hr/>	<hr/>	<hr/>
<i>Surplus / (Deficit)</i>	123	14	32

In brief, income levels have been sustained in what remains a tough economic climate, whilst expenditure has been reduced from the original budget. Spend on projects and other expenditure includes £51,732 on White Rock Baths and £54,891 on repairs and renewals.

The outturn position was a surplus of £32,000 which has been added to reserves.

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Future Expenditure Plans 2012/13 and beyond

In line with the approved Business plan, expenditure on major Projects and Other Expenditure will increase substantially in 2012/13 and will result in an overall deficit for the year, currently budgeted at some £580,000 - this being funded from Reserves.

The 12/13 budget identifies spend on projects and other expenditure amounting to some £682,000. £52,000 of this spend is on cyclical repairs and maintenance and £630,000 is programmed spend, financed from Reserves. The main areas of spend are as follows:-

- £390,000 - White Rock Baths to improve the building prior to re-leasing the building
- £205,000 - Beachfront on public health and safety work and amenities
- £10,000 - Marina - the purchase of 10 new chalets

The current business plan adopted as a working document in September 2011 includes the following for Projects and Other Expenditure for the years 2012/13 to 2015/16:

<i>Business plan</i>	2012-13	2013-14	2014-15	2015-16	
	Budget	Budget	Budget	Budget	Total
	Estimate	Estimate	Estimate	Estimate	£000's
	£000's	£000's	£000's	£000's	£000's
<i>Projects and other expenditure</i>					
Cyclical Repairs and Redecorations:					
Pier Area	3	3	3	3	12
White Rock Baths	-	12	-	15	27
Stade Barriers	2	2	2	2	8
Cycle Route	5	-	-	-	5
Winch Road	-	15	-	-	15
	<hr/>	<hr/>	<hr/>	<hr/>	<hr/>
	10	32	5	20	67
Maintenance Projects:					
Pier Area	30	-	-	-	30
Beach Steps	12	12	12	12	48
Beachfront Railings	-	-	-	15	15
	<hr/>	<hr/>	<hr/>	<hr/>	<hr/>
	42	12	12	27	93
Main programme:					
White Rock Baths	390	-	-	-	390
Marina Chalets	10	-	-	-	10
Beachfront	205	-	-	-	205
Rock a Nore Car Park	-	-	430	-	430
Pelham Place Car Park	-	205	-	-	205
Contingency	25	25	25	25	100
	<hr/>	<hr/>	<hr/>	<hr/>	<hr/>
	630	230	455	25	1,340
<i>Total projects and other expenditure</i>	682	274	472	72	1,500

At its meeting on 2 July 2012 the Committee agreed to bring forward the expenditure on Pelham Place car park to 2012/13.

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Cost of Professional advice

Legal and Professional advisor fees - £8,789 (2010-11 £104,702)

Auditors/Accountants - £ 3,500 (2010-11 £15,300)

The amounts disclosed in the Financial Statements for audit and accountancy has been reduced by £2,300 due to the recovery of VAT on the amount provided in 2010-11.

The costs of external professional advisor fees reduced substantially in 2011-12 following the transfer of the Trust to the Council.

Trustees Expenses

There were no Trustee expenses charged to the Trust in 2011-12.

Reserves policy

The policy is reviewed on a regular basis to take account of changes in the future plans of the Trust and perceived risks; the last review being July 2012. Reserves are maintained for a variety of reasons and the main points of the Policy are reproduced below. Namely:-

- a) An amount might be needed to meet an unforeseen emergency or other unexpected need. This amount is arrived at after considering risks and how much might be needed for such contingencies; this involves judgement of events that may occur and their likelihood.

£100,000 has been retained to meet an unforeseen emergency or other unexpected event.

- b) Expenditure budget - a small contingency fund to meet unforeseen operational costs.

A contingency of 10% (£86,000) has been retained for unexpected and unforeseen operational expenditure.

- c) Uncertainty over future income. Most well run organisations retain reserves equivalent to a number of weeks or months of income equivalent to allow time to develop new sources of income or to cut-back on related expenditure.

Potential significant loss of income could result from a downturn in economic activity or an increase in fuel costs resulting in fewer tourists, a major disaster in the area, bad weather, pollution incident, or loss of reputation e.g. bathing water deterioration, etc.

For the present, the equivalent of 6 months income is being retained to cater for this risk which would amount to around £½ million.

- d) Planned spending commitments which cannot be met from future income would imply a need for a specific sum to be set aside - often this amount will be included within designations in the accounts.

Given the predicted surplus for each year there is scope to include some of the recurring planned expenditure within the annual budget. There are higher cost initiatives e.g. White Rock Baths, resurfacing of car parks, roadways, etc., that necessitate identification and retention of significant sums within the accounts. The amount held in reserves for this purpose is £682,000.

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e) Cash Flow - organisations require a working balance to cover 'troughs' in the cash budget.

The majority of the income and expenditure is within the Council's own accounts. Due to the size of the programme of works it is recommended that a quarterly monitoring report be produced and the balance of any monies owing either to the Trust or from the Trust be transferred between the Councils and Trusts bank accounts respectively. A small amount will be retained in the Trusts Co-op bank account during the year to cover incidental expenses charged direct to the Trust. Any remaining monies will be invested in the Trust's CCLA account.

f) In summary the Reserves to be retained under the Reserves Policy amount to:-

<i>Ref</i>	<i>Risk Area/Designated Funds</i>	<i>Amount</i>
a)	Unforeseen emergency/event	£100,000
b)	Unforeseen operational costs/contingency	£86,000
c)	Uncertainty on income streams	£500,000
d)	Planned spending commitments	£682,000
	Total	£1,368,000

It should be noted that the reserves policy agreed in July 2012 identifies the repair and renewal works for 12/13 only. The business plan identifies main programme expenditure totalling £1.34m for the remaining period of the current business plan 2012/13 to 2015/16. The financing of the main programme is dependent upon achieving annual surpluses on the trusts main activities, given the level of Reserves being retained.

The total funds of the Trust, of which the above form a part, amount to £2,023,310 (2011 £1,991,758).

13. Plans for the Future

The Charity Committee will look to review its Business Plan on a regular basis to take account of known variations in resources and new opportunities and commitments. Subject to the Scheme's predetermination that meeting the cost of the administration and the repair and maintenance of its existing assets is the first priority; this will involve consideration of proposals for enhancing income generation and/or reducing operating expenditure as well as providing better facilities and attractions for the public benefit.

The 2011 Scheme requires the Trustee to use its best endeavours to register the Charity's land with a separate title at the Land Registry. The application to register the Charity's land is currently being considered by the Land Registry.

14. Responsibilities of the Trustee

The Trustee is responsible for preparing the trustee's report and the financial statements in accordance with applicable law and United Kingdom Accounting Standards (United Kingdom Generally Accepted Accounting Practice). Law applicable to charities in England and Wales requires the trustee to prepare financial statements for each financial year which give a true and fair view of the state of the affairs of the Trust and of the incoming resources and application of resources of the Trust for that period. In preparing these financial statements, the Trustee is required to:

- select suitable accounting policies and then apply them consistently;
- observe the methods and principles in the Statement of Recommended Practice (Accounting and Reporting by Charities) (the Charities SORP);
- make judgements and estimates that are reasonable and prudent;
- state whether applicable UK accounting standards have been followed, subject to any material departures disclosed and explained in the financial statements; and
- prepare the financial statements on the going concern basis unless it is inappropriate to presume that the Trust will continue in operation.

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The Trustee is responsible for keeping adequate accounting records which disclose with reasonable accuracy at any time the financial position of the Trust and enable them to ensure that the financial statements comply with the Charities Act 2011 (as amended), the Charity (Accounts and Reports) Regulations 2008 and the provisions of the Trust's governing document. They are also responsible for safeguarding the assets of the Trust and for taking reasonable steps for the prevention and detection of fraud and other irregularities.

15. Accountants, Auditors and Bankers

The Trust has been grateful for the excellent work of Manningtons (Auditors) in meeting the early closedown of the Accounts - due to the need to report within 6 months of the end of the financial year.

During the year the Trust re-tendered for Accountants (Final Accounts production) and external Auditor services for 2011/12 in order to continue to show value for money in its procurement activities. Manningtons were successful in the re-tendering process.

The Trustees would like to thank Buzzacotts for their valuable support and advice over the years of their work on auditing the Accounts for the Trust.

The Trust's monies are managed by the Council, the same bankers are used (Co-operative Bank), albeit that separate bank accounts are retained. The Council's comprehensive Treasury Management Strategy, and Investment Policy requirements equally apply when dealing with Trust monies.

16. Concluding remarks

The transfer of the trusteeship to the Council in January 2011 concluded a long and difficult process. The Council has previously thanked the former trustees who were involved in the trust immediately before it transferred to the Council. The Trust and Council also owes a debt of gratitude to Councillors Paul Barlow and Robert Cooke who have served on the Charity Committee since the transfer to the Council in January 2011 until May 2012 and have been instrumental in ensuring the trust operates on a sound footing, with effective governance arrangements in place.

The Trust continues to concentrate efforts on ensuring a secure and viable future for the Trust, especially in terms of maintaining and improving its assets, managing its available resources for the long term benefit of the community, and also in the distribution of grants to the benefit of the Community - as resources permit.

Signed by the Chair of the Charity Committee on behalf of the Committee and the Council

Councillor John Hodges
Chair of Charity Committee

24 September 2012

Hastings and St Leonards Foreshore Charitable Trust

Protector's report for the year ended 31 March 2012

This is my second Annual Report as Protector of The Hastings and St Leonards Foreshore Charitable Trust ("Foreshore Trust" for short). It covers my activities from August 2011 to the date of this report. As explained in detail last year, the rules of the Foreshore Trust call for the appointment of a Protector to ensure the proper management and resolution of any conflicts of interest that arise from time to time between Hastings Borough Council ("HBC") acting as Trustee of this charity and HBC acting in its capacity as local authority. To this end, the rules provide that the general duty of the Protector is "to ensure the integrity of the administration of the charity", in other words to act as a watchdog over the activities of HBC's Charity Committee in managing the affairs of the Foreshore Trust.

1. I have attended all meetings of the Charity Committee.
2. Under the new Scheme the Trustee must consult two advisory bodies: (1) a nominated consultative and advisory group (currently the Coastal Users' Group "CUG") in relation to major foreshore management issues, and (2) the Grant Advisory Panel which deals with the detailed process of recommending grants to be made by the Trustee under powers given in the Scheme. The Protector is entitled to attend the meetings of these groups, though in practice I do not routinely do so. I do however receive notices and minutes of their meetings.
3. At a Trustee meeting on 7 September 2011 approval was given to a major business plan which included proposals for future spending of over £2.6million, of which £1.5million was scheduled to take place in the five-year period from 2011 to 2016, and the remaining £1.1million in the years following. The White Rock Baths site, which is in very poor condition and state of repair, accounts for just over £1.5million (57%) of total spending envisaged. Other major projects in the business plan include improvements to the car parks (Rock a Nore and Pelham Place) of £0.66million and amenity spending of £0.2million. Initial spending in the year ended 31 March 2012 was approximately £0.1million. In the current financial year (ending 31 March 2013) expenditure is budgeted at £0.68million.
4. This was the context in which some members of the public contacted me in late 2011 and raised a doubt as to whether the White Rock Baths site was truly the financial responsibility of the Foreshore Trust, or whether such responsibility lay with the Borough of Hastings as local authority. The White Rock Baths were not the responsibility of the Foreshore Trust when it was established in 1893, because the site had been leased for a very long (500 year) period to the company that built and operated the baths. That company, however, later got into financial difficulties and during the 1920s the White Rock Baths came into the ownership of HBC, though it was unclear whether the Council owned the site in its capacity as local authority or as Trustee of the Foreshore Trust. The Council then undertook a major reconstruction and refurbishment project, evidently using its own funds and borrowings to do so. Many years later, in the 1990s, the White Rock Baths site fell entirely into disuse.
5. Because of the significance of the proposed future spending on the site, I raised the issue of who should bear the cost with the Trustee at the Charity Committee meeting on 12 December 2011. The matter was referred to a Charity Committee meeting on 9 January 2012 held in connection with more general matters concerning boundary issues between the Council and the Foreshore Trust. Independent legal advice given at that meeting made clear that the freehold ownership of the White Rock Baths site had indeed passed to HBC following the surrender of the 500 year lease in the 1920s; however the legal adviser said that the basis of ownership by the Council (ie whether in its own right as local authority or as Trustee of the Foreshore Trust) was a matter of trust law on which specialist advice would be required. The Charity Committee was reluctant to incur the cost of this but I considered myself bound by Clause 13(1) of the Charity Scheme dated 13 January 2011 to bring the matter to the attention of the Charity Commission. Before doing so I briefly consulted independent legal advisers who confirmed (at no cost to me or to the Foreshore Trust) that I was raising a "perfectly valid and prima facie substantive" issue. I accordingly put the facts before the Charity Commission on 22 March 2012. However on 3 May I heard back from the Charity Commission that that it had "no regulatory interest" in the matter. This means that the Commission has raised no objection to the expenditure of Foreshore Trust funds on the White Rock Baths site and that therefore the doubts originally raised with me can be put aside.

Hastings and St Leonards Foreshore Charitable Trust

Protector's report for the year ended 31 March 2012

6. An unanticipated issue arose in April concerning the process of making grants for charitable purposes. While a clear and transparent process had been established for other charities to apply for a share of a pre-determined charitable distribution "pot" (currently £50,000 annually), there was no process to guide the Grants Advisory Panel in dealing with an application arising as part of a larger transaction or project (and therefore outside the normal process). Such an instance occurred in connection with a re-structuring of a proposal first considered in 2011 to allow the Hastings Pier and White Rock Trust, acting through the Hastings Pier Charity, to use part of the White Rock Baths site as a community showroom. Part of the proposed transaction involved the Foreshore Trust making a £25,000 grant towards the overall financing package, and the rules of the Foreshore Trust require all grants to other charities to be vetted by the GAP. The amount involved (going to a single recipient) is clearly very material in comparison with individual grants made in the annual grant process, and an entirely different appraisal procedure is needed to deal with such circumstances.

7. I have carefully reviewed the results of several contract tender processes during the period under review, including those relating to insurances, audit and accountancy services, and the grounds maintenance contract, and am satisfied that the selection and review processes have been properly undertaken and, in cases where tenders have also involved work for HBC, have paid proper regard to the separate interests of the Foreshore Trust.

Christopher May FCA

Protector

28 August 2012

Hastings and St Leonards Foreshore Charitable Trust

Independent auditor's report to the members of Hastings and St Leonards Foreshore Charitable Trust

We have audited the financial statements of Hastings and St Leonards Foreshore Charitable Trust for the year ended 31 March 2012 which comprise the Statement of Financial Activities, the Balance Sheet and the related notes. The financial reporting framework that has been applied in their preparation is applicable law and United Kingdom Accounting Standards (United Kingdom Generally Accepted Accounting Practice).

This report is made solely to the charity's trustees, as a body, in accordance with Section 154 of the Charities Act 2011. Our audit work has been undertaken so that we might state to the charity's trustees those matters we are required to state to them in an auditor's report and for no other purpose. To the fullest extent permitted by law, we do not accept or assume responsibility to anyone other than the charity and the charity's trustees as a body, for our audit work, for this report, or for the opinions we have formed.

Respective responsibilities of the trustee and auditor

As explained more fully in the Statement of Trustees' Responsibilities set out in the Trustees' Report, the trustees are responsible for the preparation of financial statements which give a true and fair view.

We have been appointed as auditor under Section 144 of the Charities Act 2011 and report in accordance with regulations made under Section 154 of that Act. Our responsibility is to audit and express an opinion on the financial statements in accordance with applicable law and International Standards on Auditing (UK and Ireland). Those standards require us to comply with the Auditing Practices Board's Ethical Standards for Auditors.

Scope of the audit of the financial statements

An audit involves obtaining evidence about the amounts and disclosures in the financial statements sufficient to give reasonable assurance that the financial statements are free from material misstatement, whether caused by fraud or error. This includes an assessment of: whether the accounting policies are appropriate to the charity's circumstances and have been consistently applied and adequately disclosed; the reasonableness of significant accounting estimates made by the trustees; and the overall presentation of the financial statements. In addition we read all the financial and non-financial information in the Trustees' Report to identify material inconsistencies with the audited financial statements. If we become aware of any apparent material misstatements or inconsistencies we consider the implications for our report.

Opinion on financial statements

In our opinion the financial statements:

- give a true and fair view of the state of the charity's affairs as at 31 March 2012 and of its incoming resources and application of resources, including its income and expenditure, for the year then ended;
- have been properly prepared in accordance with United Kingdom Generally Accepted Accounting Practice; and
- have been prepared in accordance with the requirements of the Charities Act 2011.

Hastings and St Leonards Foreshore Charitable Trust

Independent auditor's report to the members of Hastings and St Leonards Foreshore Charitable Trust

Matters on which we are required to report by exception

We have nothing to report in respect of the following matters where the Charities Act 2011 requires us to report to you if, in our opinion:

- the information given in the Trustees' Report is inconsistent in any material respect with the financial statements; or
- sufficient accounting records have not been kept; or
- the financial statements are not in agreement with the accounting records and returns; or
- we have not received all the information and explanations we require for our audit.

**Manningtons
Statutory Auditor**

**7 Wellington Square
Hastings
East Sussex
TN34 1PD**

Manningtons is eligible to act as an auditor in terms of section 1212 of the Companies Act 2006

Hastings and St Leonards Foreshore Charitable Trust

Statement of financial activities

For the year ended 31 March 2012

	Notes	2012 Total £	2011 Total £
Incoming resources			
Incoming resources from generating funds:			
Investment income	2	10,610	7,366
Incoming resources from charitable activities	3	1,039,078	1,015,392
Other incoming resources	4	-	110,000
Total incoming resources		<u>1,049,688</u>	<u>1,132,758</u>
Resources expended			
Charitable activities	5	932,640	745,982
Governance costs	6	85,496	162,179
Total resources expended		<u>1,018,136</u>	<u>908,161</u>
Net movement in funds		31,552	224,597
Total funds brought forward		<u>1,991,758</u>	<u>1,767,161</u>
Total funds carried forward		<u>2,023,310</u>	<u>1,991,758</u>

The statement of financial activities includes all gains and losses in the year and therefore a separate statement of total recognised gains and losses has not been prepared.

All of the above amounts relate to continuing activities.

All funds are unrestricted.

The notes on pages 18 to 21 form an integral part of these financial statements.

Hastings and St Leonards Foreshore Charitable Trust

Balance sheet as at 31 March 2012

	Notes	£	2012 £	£	2011 £
Fixed assets					
Tangible assets	9		211,168		214,018
Current assets					
Debtors	10	12,029		250,741	
Cash at bank and in hand		1,803,613		1,567,231	
		1,815,642		1,817,972	
Creditors: amounts falling due within one year	11	(3,500)		(40,232)	
Net current assets			1,812,142		1,777,740
Net assets			2,023,310		1,991,758
Funds					
Unrestricted income funds			2,023,310		1,991,758
Total funds			2,023,310		1,991,758

The financial statements were approved by the trustee on 24 September 2012 and signed on its behalf by

Councillor John Hodges
Chair of Charity Committee

The notes on pages 18 to 21 form an integral part of these financial statements.

Hastings and St Leonards Foreshore Charitable Trust

Notes to financial statements for the year ended 31 March 2012

1. Accounting policies

The principal accounting policies are summarised below. The accounting policies have been applied consistently throughout the year and the preceding year.

1.1. Basis of accounting

The financial statements are prepared under the historical cost convention and in accordance with the Statement of Recommended Practice 'Accounting and Reporting by Charities' (SORP 2005 2nd edition) and the Charities Act 2011.

1.2. Cashflow

The charity has taken advantage of the exemption in FRS1 from the requirement to produce a cashflow statement because it is a small charity.

1.3. Incoming resources

All incoming resources are included in the statement of financial activities when the charity is entitled to the income and the amount can be quantified with reasonable accuracy. The following specific policies are applied to particular categories of income:

Income from investments is included in the year in which it is receivable.

1.4. Resources expended

Expenditure is recognised on an accrual basis as a liability is incurred. Expenditure includes any VAT which cannot be fully recovered, and is reported as part of the expenditure to which it relates.

Charitable expenditure comprises those costs incurred by the charity in the delivery of its activities and services for its beneficiaries. It includes both costs that can be allocated directly to such activities and those costs of an indirect nature necessary to support them.

Governance costs include those incurred in the governance of the charity and its assets and are primarily associated with financing and with constitutional and statutory requirements.

1.5. Tangible fixed assets and depreciation

Tangible fixed assets are stated at cost less accumulated depreciation. Depreciation is provided at rates calculated to write off the cost less residual value of each asset over its expected useful life, as follows:

Land	-	not depreciated
Plant and equipment	-	over 15 years straight line

The land comprising the foreshore of Hastings and St Leonards was sold to the Trust by the Crown in September 1893 for £400 and subsequent purchases between 1925 and 1934 for a further £630. No valuation of this land has ever been carried out and it is recorded at cost. Land valued at £95,000 was acquired in 2010 as part of a land swap with Hastings Borough Council. The trustees are of the opinion that the open market value is materially in excess of the carrying value of the land.

1.6. Staff and pension schemes

The charity has no employees but is charged the relevant portion of those undertaking work in pursuance of the charity's objectives. These are employed by Hastings Borough Council and have the choice of being in the relevant defined benefit local government pension scheme.

Hastings and St Leonards Foreshore Charitable Trust

Notes to financial statements for the year ended 31 March 2012

2. Investment income

	2012 £	2011 £
Bank interest receivable	10,610	7,366
	<u>10,610</u>	<u>7,366</u>

3. Incoming resources from charitable activities

	2012 £	2011 £
Car parking	864,526	839,426
Rents	164,876	165,653
Other income	9,676	10,313
	<u>1,039,078</u>	<u>1,015,392</u>

4. Other incoming resources

	2012 Total £	2011 Total £
Gain on disposal of tangible fixed assets	-	110,000
	<u>-</u>	<u>110,000</u>

On 28 May 2010, the Trust entered into a land swap agreement with Hastings Borough Council. The Trust acquired a strip of land within Pelham Place car park valued at £95,000 and received additional consideration of £15,000 in exchange for the land at the Stade Coach and Lorry park, valued at £110,000.

Hastings and St Leonards Foreshore Charitable Trust

Notes to financial statements for the year ended 31 March 2012

5. Costs of charitable activities - by activity

	Activities undertaken directly £	Grant funding activities £	2012 Total £	2011 Total £
Car parking	219,730	-	219,730	206,328
Foreshore management	297,727	-	297,727	318,647
Street cleansing	95,450	-	95,450	92,436
Public conveniences	148,065	-	148,065	128,572
White Rock Baths	51,732	-	51,732	-
Other projects	54,891	-	54,891	-
Grant making	-	65,045	65,045	-
	<u>867,595</u>	<u>65,045</u>	<u>932,640</u>	<u>745,983</u>

6. Governance costs

	2012 £	2011 £
Accountancy fees	(250)	3,000
Auditor remuneration	1,450	12,300
Protector's fees	10,000	5,997
Legal and professional fees	8,789	104,702
HBC management charges	64,883	34,711
Trustees' indemnity insurance	624	1,071
Trustees' reimbursement and meeting costs	-	398
	<u>85,496</u>	<u>162,179</u>

7. Employees

There are no direct employees.

8. Trustees' emoluments

No remuneration was paid to trustees during the year. Expenses of £nil (2011 : £398) were paid to one trustee for travel costs.

Hastings and St Leonards Foreshore Charitable Trust

Notes to financial statements for the year ended 31 March 2012

9. Tangible fixed assets	Land and buildings freehold £	Plant and equipment £	Total £
Cost			
At 1 April 2011	96,030	122,058	218,088
Additions	-	5,290	5,290
At 31 March 2012	<u>96,030</u>	<u>127,348</u>	<u>223,378</u>
Depreciation			
At 1 April 2011	-	4,070	4,070
Charge for the year	-	8,140	8,140
At 31 March 2012	<u>-</u>	<u>12,210</u>	<u>12,210</u>
Net book values			
At 31 March 2012	<u>96,030</u>	<u>115,138</u>	<u>211,168</u>
At 31 March 2011	<u>96,030</u>	<u>117,988</u>	<u>214,018</u>

10. Debtors	2012 £	2011 £
Amounts owed by Hastings Borough Council	9,922	250,741
Prepayments and accrued income	2,107	-
	<u>12,029</u>	<u>250,741</u>

11. Creditors: amounts falling due within one year	2012 £	2011 £
Trade creditors	-	20,944
Accruals and deferred income	3,500	19,288
	<u>3,500</u>	<u>40,232</u>