

# Charity Committee Agenda

**Monday, 30 June 2014 at 6.00 pm**

Town Hall, Queen's Square, Priory Meadow, Hastings TN34 1QR

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|    |  | Page No. |
|----|--|----------|
| 1. | Apologies for Absence  |          |
| 2. | Declarations of Interest   |          |
| 3. | Minutes of the meeting held on 5 June 2014   | 1 - 2    |
| 4. | Notification of any additional urgent items  |          |
| 5. | Foreshore Trust Financial Report<br>(Peter Grace, Head of Finance)                   | 3 - 28   |
| 6. | Seafront Byelaw Review<br>(Virginia Gilbert, Head of Amenities, Resorts and Leisure) | 29 - 36  |
| 7. | Minutes of the meeting of Coastal Users Group held on 10 June 2014                   | 37 - 40  |
| 8. | Additional urgent items (if any)   |          |

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## CHARITY COMMITTEE

5 JUNE 2014

Present: Councillors Hodges (Chair), Forward, May and Westley. Also in attendance Mr Chris May, The Protector.

### 1. DECLARATION OF INTEREST

There were no declarations of interest made at this meeting.

### 2. MINUTES OF THE MEETING HELD ON 24 MARCH 2014

**RESOLVED** – that the minutes of the meeting held on 24 March 2014 be approved and signed by the Chair as a correct record.

### 3. WHITE ROCK BATHS - DEVELOPMENT PROPOSAL

The Director of Regeneration presented a report to inform members of work to bring forward proposals for White Rock baths and to seek support for this approach.

The Foreshore Trust had been working for a number of years to identify a suitable alternative use for the White Rock Baths, which had been vacant for a number of years. The Trust had been approached by the Source, a BMX and mail order company based in Braybrooke Road, with proposals to utilise the premises as an indoor arena for BMX and skateboard competitions and training, with supporting retail and refreshment provision. The proposed use of the building was in keeping with Trust's objectives to promote sporting and recreational use of the foreshore.

The proposals had received a very supportive response from the Coastal Users Group at an earlier briefing meeting, the group were also due to receive a further update at their next meeting, once a decision on the scheme has been made. The business plan for the project had been reviewed by Let's Do Business Group. Hastings and Rother Disability forum had been consulted on the proposal, including planned improvements to make the building more accessible.

The funding package for the project included an investment of £150,000 from the Foreshore Trust, using funds previously earmarked for works to the Rock a Nore car park. Funding was also sought from East Sussex County Council and Hastings Borough Council, including a loan of £300,000 from Hastings Borough Council, which would be supported by rental income. The funding would support the refurbishment of the building prior to an internal fit out by the tenant. It was proposed that premises should then be leased for a 10 year period, at a rental of £36,000 per annum. Should the venture fail and the premises become vacant during the 10 year period, the Trust would share the risk of loan repayments on a 50:50 basis with Hastings Borough Council.

## CHARITY COMMITTEE

5 JUNE 2014

A further proposal had been received from the West End Sustainable Development Company; however, it was felt that insufficient information had been provided to recommend proceeding with this option.

Members expressed their support for the proposals put forward by the Source.

Councillor Forward moved approval of the recommendations, as set out in the Director of Regeneration's report, which was seconded by Councillor Westley.

### **RESOLVED (unanimously) – that:**

- 1) subject to funding being obtained from East Sussex County Council and Hastings Borough Council, the committee approve the proposal to create a BMX/ skateboard facility at White Rock Baths on the basis contained in the report, and;**
- 2) delegation is given to the Director of Regeneration acting in consultation with the Director of Corporate Resources and the Chair of the Foreshore Trust and Lead member for Regeneration to complete tendering, contracting, lease and other arrangements to deliver the proposed scheme at White Rock Baths.**

### **Reason for the decision: -**

To enable the White Rock Baths to be open for business by Christmas 2015.

(The Chair declared the meeting closed at. 5.30 pm)

**Agenda Item No: 5**

**Report to:** Charity Committee

**Date of Meeting:** 30 June 2014

**Report Title:** Foreshore Trust Financial Report

**Report By:** Peter Grace  
Head of Finance

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## **Purpose of Report**

To advise members of the Committee on the current year's financial position, agree revisions to the Trust's business plan and review the Reserves Policy.

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## **Recommendation(s)**

- 1. To agree the current financial position for 2014/15.**
- 2. The business plan to be revised to accommodate additional works and contributions being made in respect of the White Rock Baths (subject to external funding being confirmed).**
- 3. The Risk Register be agreed (Appendix 4)**
- 4. The Reserves Policy (Appendix 5) be agreed.**

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## **Reasons for Recommendations**

The Council has the responsibility for the proper management of the financial affairs of the Trust. In doing so it complies with Accounting Codes of Practice and the high standards required for the accounting of Public money.

A surplus was generated in 2013/14 in line with expectations and a surplus in line with budget expectations is anticipated for 2014/15 in respect of ongoing operations.

The reserves policy is reviewed on an annual basis and is undertaken against the uncertainties that continue in the economy.

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## Introduction

1. The Foreshore Trust derives its income mainly from Car Parking and property leases/licences.
2. Appendix 1 attached provides a summarised financial position for 2014/15.

## Financial Position 2014/15

3. The budget agreed in March 2014 identified budgeted income at £1,088K and expenditure at £838K. The estimated surplus for the year being £250K, after direct governance costs, but before distribution of grants, capital charges and before use of Reserves.
4. Income and expenditure projections are currently in line with the budget.

## Business Plan 2014/15

5. At the special meeting of the Charity Committee on 5 June 2014, approval for the White Rock Baths scheme was agreed. The total cost has been estimated at £822k and some of these costs may fall in 2014/15.
6. The business plan has been revised to take account of the decisions made at the meeting on the 5 June, although it will need to be revised further depending upon the extent of external funding in respect of the white Rock baths
7. This level of programmed spend will continue to reduce the cash balances held by the Trust. The implications for the Trust are that the level of reserves will decrease, but the Trust will still retain reserves above the minimum level identified within the Reserves Policy – subject to no unexpected calls on the reserves and no reduction in the expected levels of car parking and fee income.
8. The current programme of works is identified in Appendix 2. The Committee has approved expenditure on all these schemes.

## Reserves

9. The total cash balances on the Trust accounts at the 31 March 2014 amounted to £1.32m (unaudited). With the revisions to the business plan, the revised cash balances for future years are estimated as follows :-

£1,067K as at 31st March 2015,

£844K as at 31st March 2016

£1069K as at 31st March 2017.

The reserves policy identifies £695,000 as the suitable level to maintain – given the level of uncertainty in the economy and the potential risks faced by the Trust.

10. The Risk Register is included in Appendix 4. This seeks to identify the potential risks to the Foreshore Trust that could have financial implications, and which necessitate the maintenance of reserves. A new risk, that of the White Rock Baths project (at an estimated cost of £822k) will be added to the register, once it is known whether external funding applications are successful, Members are asked to agree the risk register.

## **Reserves Policy**

11. The Reserves Policy is included in Appendix 5 and this will continue to be considered by the Trust on an annual basis in conjunction with the review of risk (more often if circumstances require).
12. Appendix 3 attached provides background information on determining a Reserves policy. This is based on extracts of the Charity Commission guidance on this issue.

Key points about charity reserves :-

1. Charity law requires any income received by a charity to be spent within a reasonable period of receipt.
2. Trustees should be able to justify the holding of income as reserves.
3. Reserves are that part of a charity's unrestricted income funds that is freely available to spend.
4. Where the trustees have a reserves policy, this policy must be set out in the trustees' annual report.
5. If the trustees have not set a reserves policy, this should be stated in the trustees' annual report.
6. A good reserves policy takes into account the charity's financial circumstances and other relevant factors.
7. It is good practice to monitor the level of reserves held throughout the year.
8. It is good practice to keep the reserves policy under review to ensure it meets a charity's changing needs and circumstances.

In summary the Reserves policy (Appendix 5) effectively recommends that Cash Reserves of £690,000 be retained, plus sufficient funds to meet the Repairs and Renewals programme - which remains subject to regular amendment. It is also recommended that the Reserves policy continue to be regularly reviewed.

## **Final Accounts 2013/14**

13. The final accounts are due to be considered by the Committee at its meeting on 29 September 2014.

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**Wards Affected**

Ashdown, Baird, Braybrooke, Castle, Central St. Leonards, Conquest, Gensing, Hollington, Maze Hill, Old Hastings, Ore, Silverhill, St. Helens, Tressell, West St. Leonards, Wishing Tree

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**Area(s) Affected**

Central Hastings, East Hastings, North St. Leonards, South St. Leonards

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**Policy Implications**

Please identify if this report contains any implications for the following:

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|---------------------------------------|-----|
| Equalities and Community Cohesiveness | No  |
| Crime and Fear of Crime (Section 17)  | No  |
| Risk Management                       | No  |
| Environmental Issues                  | No  |
| Economic/Financial Implications       | Yes |
| Human Rights Act                      | No  |
| Organisational Consequences           | No  |
| Local People's Views                  | No  |

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**Background Information**

Appendix 1 – Financial Monitoring Report  
Appendix 2 – Business Plan – Financial Summary  
Appendix 3 – Reserves Policy (Charity Commission guidance)  
Appendix 4 – Risk Register - Foreshore Trust (FST)  
Appendix 5 – Reserves Policy

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**Officer to Contact**

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## Reserves Policy (Charity Commission Guidance)

### 1. Introduction

In determining the policy in Appendix 5 of this report due recognition has been taken of the Charity Commission guidance on this area (Charities and Reserves (CC19), June 2010). This guidance is written for trustees of all types of charities, whether they are companies, trusts or associations. It explains what is meant by the term reserves, the trustees' responsibility to consider whether their charity needs reserves, and what to bear in mind when developing a policy on reserves.

### 2. Common Terminology

To understand the rules surrounding the establishment and use of reserves there is a need to understand the terminology used in accounting for charities.

**Designated funds** are part of the unrestricted funds which trustees have earmarked for a particular project or use, without restricting or committing the funds legally. The designation may be cancelled by the trustees if they later decide that the charity should not proceed or continue with the use or project for which the funds were designated.

**Income and income funds** means all incoming resources that become available to a charity and that the trustees are legally required to spend in furtherance of its charitable purposes within a reasonable time of receipt. Income funds may be unrestricted or restricted to a particular purpose of the charity.

**Programme related** or social investment is not 'investment' in the conventional sense of a financial investment. Conventional investments involve the acquisition of an asset with the sole aim of financial return which will be applied to the charity's objects. Programme related or social investments, by contrast, are made directly in pursuit of the organisation's charitable purposes. Although they can generate some financial return, the primary motivation for making them is not financial but the actual furtherance of the charity's objects.

**Restricted funds:** Restricted funds are funds subject to specific trusts, which may be declared by the donor(s) or with their authority (eg in a public appeal) or created through legal process, but still within the wider objects of the charity. Restricted funds may be restricted income funds, which are spent at the discretion of the trustees in furtherance of some particular aspect(s) of the objects of the charity, or they may be endowment funds, where the assets are required to be invested, or retained for actual use, rather than spent.



**Risk** is used in this guidance to describe the uncertainty surrounding events and their outcomes that may have a significant financial impact. Risk may either enhance or inhibit any area of a charity's operations.

**Unrestricted funds** (including designated funds): Unrestricted income funds are income or income funds which can be spent at the discretion of the trustees in furtherance of any of the charity's objects. If part of an unrestricted income fund is earmarked for a particular project it may be designated as a separate fund, but the designation has an administrative purpose only, and does not legally restrict the trustees' discretion to spend the fund.

### 3. Understanding reserves and the need for a reserves policy

#### What are reserves?

Reserves are that part of a charity's unrestricted funds that is freely available to spend on any of the charity's purposes. This definition excludes restricted income funds and endowment funds, although holding such funds may influence a charity's reserves policy. Reserves will also normally exclude tangible fixed assets held for the charity's use and amounts designated for essential future spending.

The Charities SORP defines reserves as that part of a charity's income funds that is freely available to spend. Reserves therefore exclude endowment or restricted income funds which have particular restrictions on how the funds may be used. Trustees need to consider how the funds of the charity are held and how they are being used in order to identify those resources that are freely available to spend.

#### Unrestricted funds

The starting point for calculating the amount of reserves held will normally be the amount of unrestricted funds held by a charity. However, part of the unrestricted funds of a charity may not always be readily available for spending. Examples of this are:

- **Tangible fixed assets:** the Charities SORP specifically allows funds held as tangible fixed assets for charity use to be excluded from reserves. This recognises that certain assets will be used operationally and their disposal may adversely impact on a charity's ability to deliver its aims.
- **Programme-related investments:** where a charity makes programme-related investments solely to further its charitable purposes, then such investments can be excluded from reserves.
- **Designated funds:** where unrestricted funds are earmarked or designated for essential future spending, for example, to fund a project that could not be met from future income alone they can be excluded from reserves. In such cases the reserves policy should explain the nature and amount of the designation and when the funds set aside are likely to be spent. It is never acceptable to set up designations simply to reduce the stated level of reserves.

## Why is a reserves policy important?

Deciding the level of reserves that a charity needs to hold is an important part of financial management and forward financial planning. Reserves levels which are higher than necessary may tie up money unnecessarily. Holding excessive reserves can unnecessarily limit the amount spent on charitable activities, reducing the potential benefits a charity can provide. However, if reserves are too low then the charity's solvency and its future activities can be put at risk.

All charities need to develop a policy on reserves which establishes a level of reserves that is right for the charity and clearly explains to its stakeholders why holding these reserves is necessary.

A good reserves policy will explain how reserves are used to manage uncertainty and, if reserves are held to fund future purchases or activities, it will explain how and when the reserves will be spent. A reserves policy provides assurance that the finances of the charity are actively managed and its activities are sustainable. In particular, a reserves policy can help to:

- give confidence to funders by demonstrating good stewardship and financial management;
- demonstrate the charity's sustainability and capacity to manage unforeseen financial difficulties;
- give voluntary funders, such as grant-makers, an understanding of why funding is needed to undertake a particular project or activity;
- give assurance to lenders and creditors that the charity can meet its financial commitments; and
- manage the risk to a charity's reputation from holding substantial unspent funds at the year-end without explanation.

Developing a reserves policy is also an important part of the internal financial management of a charity. Developing a reserves policy is likely to:

- Assist in strategic planning, for example, considering how new projects or activities will be funded.
- Inform the budget process, for example, is it a balanced budget or do reserves need to be drawn down or built up?
- Inform the budget and risk management process by identifying any uncertainty in future income streams.

The reserves policy will develop in an integrated manner, recognising that strategic and financial planning informs the development of reserves policies and vice versa. For



example, the budgets will identify peaks and troughs in cash flow and the reserves policy will need to ensure the troughs in funding can be met from reserves held.

### **How should a reserves policy be developed?**

Trustees need to understand the nature of any restrictions on the use of the charity's funds they hold. Budgets and future plans need to be considered, in particular any uncertainty over future income or the risk of unexpected calls on the charity's funds. In looking at future plans, projects or other spending needs might be identified that cannot be met from the income of a single year's budget alone. Having identified why reserves might be needed, trustees then need to think about how much might be required and how much is currently held as reserves. The decision made on these matters and the quantification of the amounts that need to be set aside forms a charity's reserves policy.

#### **In more detail**

There is no single method or approach to setting a reserves policy. The approach adopted will vary with the size, the nature and complexity of activities and the nature of funds received and held by a charity. However, for all charities, setting a reserves policy will involve:

- Consideration of the nature of the funds received and held by the charity - are the funds unrestricted or restricted income, or expendable or permanent endowment? This understanding allows trustees to identify unrestricted funds which can be spent on any purposes of the charity.
- Larger charities are likely to have a formal risk management process. But all charities need to think about uncertainties they may face in the future and the need to hold some reserves to meet an unexpected call on funds or opportunities that may present themselves.
- Larger charities are likely to have strategic and operational plans. But all charities need to think about their future budgets and future projects or spending plans that cannot be met from the income of a single year.

By working through these steps the trustees will be well placed to identify why reserves might need to be held and to quantify the amounts of reserves needed to operate effectively.

Once a reserves policy is set, it should not be regarded as a static policy. The circumstances of a charity will change with time and we recommend that the policy should be reviewed at least annually as part of a charity's planning processes. The amount held in reserves should also be monitored during the course of the year as part of a charity's budgetary processes.

### **What level or range of reserves is required?**

The charity's target level of reserves can be expressed as a target figure or a target range and should be informed by:

- its forecasts for levels of income for the current and future years, taking into account the reliability of each source of income and the prospects for developing new income sources;
- its forecasts for expenditure for the current and future years on the basis of planned activity;
- its analysis of any future needs, opportunities, commitments or risks, where future income alone is unlikely to be able to meet anticipated costs; and
- its assessment, on the best evidence reasonably available, of the likelihood of each of those needs that justify having reserves arising and the potential consequences for the charity of not being able to meet them.

Trustees who hold reserves without attempting to relate their need for reserves to factors such as these will have difficulty in satisfactorily explaining why they hold the amount of reserves that they do.

### **What steps should trustees take to maintain and monitor reserves at the target level?**

Having set the reserves level or range in which it is desirable to operate, it is important to monitor the reserves actually held to establish the reason for any significant difference with the target level set. If reserves during the year are below target or exceed target, the trustees should consider whether this is due to a short-term situation or a longer-term issue. Action may be needed to replenish or spend reserves.

The trustees' monitoring of reserves should not just be a year-end procedure. How the level of reserves changes during the year can be a good indicator of the underlying financial health of the charity and can be an indicator of potential problems. The level of reserves should be monitored throughout the year as part of the normal monitoring and budgetary reporting processes.

In particular, trustees should:

- identify when reserves are drawn on so that they understand the reasons and can consider the corrective action, if any, that needs to be taken;
- identify when reserve levels rise significantly above target so that they understand the reasons and can consider the corrective action, if any, that needs to be taken;
- identify where the reserves level is below target, consider whether this is due to short-term circumstance or longer term reasons which might trigger a broader review of finances and reserves;
- regard the ongoing review of the reserves level, target and policy as part of managing the charity;



- ensure that the reserves policy continues to be relevant as the charity develops or changes its strategy and activities;
- review the statement on reserves in the trustees' annual report where there have been significant changes in the reserves policy or level of reserves held.

### **Explaining reserves in the annual report**

The Charities SORP requires trustees to include in their annual report:

- a statement of their policy on reserves;
- the level of reserves held and an explanation of why they are held;
- where material funds have been designated, the amount and the purpose of the designation should be explained;
- where designated funds are set aside for future expenditure, the likely timing of that expenditure.

### **Why might you need reserves for the charity to be effective?**

The basis of a good reserves policy is thinking through exactly why you might need to hold back some funds as reserves. In a small charity, with a simple structure and uncomplicated activities, the reasons might include:

- a) The risk of unforeseen emergency or other unexpected need for funds, eg an unexpected large repair bill or finding 'seed-funding' for an urgent project.
- b) Covering unforeseen day-to-day operational costs, eg employing temporary staff to cover a long-term sick absence.
- c) A source of income, eg a grant, not being renewed. Funds might be needed to give the trustees time to take action if income falls below expectations.
- d) Planned commitments, or designations, that cannot be met by future income alone, eg plans for a major asset purchase or to a significant project that requires the charity to provide 'matched funding'.
- e) The need to fund short-term deficits in a cash budget, e.g. money may need to be spent before a funding grant is received.

If, after considering the above, you think that reserves are needed please go to question 2. If you conclude that your charity does not need to hold any reserves, then you must explain that in your annual report.

### **Question 2. How much do you need in reserve?**

The reserves level may be a target amount or a target range. For example, for each reason set out in question 1:

- a) An amount might be needed to meet an unforeseen emergency or other unexpected need - consider risks and how much might be needed for such contingencies; this will involve judgement of events that may occur and their likelihood.
- b) Look at your expenditure budget - do you need a small contingency fund to meet unforeseen operational costs?
- c) Uncertainty over future income might mean having reserves equivalent to a number of weeks of income equivalent to a range of £x to £y, to allow time to develop new sources of income or to cut-back on related expenditure.
- d) A planned spending commitment 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 accounts.
- e) An amount might be needed to cover 'troughs' in the cash budget - review budgets to ascertain how much might be needed.

In summary, the financial risks you identify should influence the amount of reserves you target to hold and be explained in your reserves policy.

Setting a reserves policy is not a task undertaken in isolation. A reserves policy is a product of a charity's strategic planning, budgeting and risk management processes. These processes provide trustees with the information they need to establish exactly why they might need reserves and to help them quantify that need. The steps involved in these processes are interrelated with the outcome of one process informing another. For example, identified financial risks will inform both budgeting and the reserves policy. Setting a reserves policy can be approached in different ways.

[Step 1 - Understanding the nature of charitable funds held;](#)

[Step 2 - Identifying functional assets;](#)

[Step 3 - Understanding the financial impact of risk;](#)

[Step 4 - Reviewing sources of income;](#)

[Step 5 - Impact of future plans and commitments;](#)

[Step 6 - Agreeing a reserves policy.](#)







Risk Register - Foreshore Trust (FST)

|   | Service | Potential Risk  | Risk Rating (Likelihood / Impact) | Potential Impact   | Responsibility for controls | Steps to mitigate risk, time frame for implementation and latest position   |
|---|---------|---|-----------------------------------|--|-----------------------------|---|
| 1 | FT      | Corporate Governance non –compliance with articles of association or Charity Commission rules   | Medium / High                     | <ul style="list-style-type: none"> <li>- Failure to deliver on priorities (reputational and financial)</li> <li>- Financial – legal challenge and costs of that</li> </ul>   | - Chief Legal Officer       | <ul style="list-style-type: none"> <li>- Protector attendance at Charity Committee.</li> <li>- Providing legal advice as appropriate</li> <li>- Training for Charity Committee members</li> <li>- All on-going</li> </ul> |
| 2 | FT      | <p>Charity Committee administration</p> <p>Statutory publication deadlines missed for agendas and the Forward Plan and meetings have to be cancelled delaying key decisions.</p> <p>Officers/Services miss deadlines for reports.</p> | Low / High                        | <ul style="list-style-type: none"> <li>- Legal</li> <li>- Leaves HBC open to challenge, for example if Planning Applications are delayed or budget deadlines missed.</li> <li>- Financial – costs of legal challenges.</li> <li>- Reputational – High risk of bad media and public profile.</li> </ul> | - Chief Legal Officer       | <ul style="list-style-type: none"> <li>- Professionally trained staff with flexible approach.</li> <li>- Officers frequently chased and reminded about report deadlines.</li> </ul>                                       |

|   | Service | Potential Risk  | Risk Rating (Likelihood / Impact) | Potential Impact  | Responsibility for controls              | Steps to mitigate risk, time frame for implementation and latest position   |
|---|---------|---|-----------------------------------|---|--|---|
| 3 | FT      | Income<br><br>Loss of Visitors to Hastings<br>e.g. Major Pollution incident, water quality, major disaster elsewhere in Hastings. | Medium / High                     | - Budget deficit<br>- Loss of 6 months income would equate to around £½m    | - Head of Finance<br>- Chief Accountant  | - ensure regular budget monitoring reports distributed followed up by meetings<br><br>- report variances to Charity Committee so any budget deficits can be addressed<br>- report variances at each meeting<br>- Maintain adequate Reserves |
| 4 | FT      | Maintain Buildings and Infrastructure<br><br>- Need for a long term repair and renewal programme                                  | Low/Medium                        | - Build up of urgent and costly repairs (Planned maintenance reduces costs) | - Head of Amenities, Resorts and Leisure | Production, maintenance and regular review of repair and Renewal programme – based on regular inspection of assets.<br>Ensure compliance of lease obligations<br>Maintain and accumulate sufficient funds to finance agreed programme       |
| 5 | FT      | Unforeseen operational expenditure  | Medium/High                       | - Reputation damage<br>- Unable to meet commitments<br>- Legal liabilities  | - Head of Amenities, Resorts and Leisure | - Maintain adequate Reserves  |
| 6 | FT      | Treasury Management   |                                   | - Trust balances of   | Head of Finance                          | - Use of External Advisers – Capita   |

|   | Service | Potential Risk  | Risk Rating (Likelihood / Impact)                      | Potential Impact   | Responsibility for controls   | Steps to mitigate risk, time frame for implementation and latest position   |
|---|---------|---|--|--|---|---|
|   |         | <ul style="list-style-type: none"> <li>- cash flow</li> <li>- Loss of money/fraud/theft</li> <li>- Reduction of investment Interest</li> <li>- Cost of borrowing</li> </ul> | Low/Medium<br>Low / High<br>Low / Low<br><br>Low / Low | £2m  |   | asset Services<br><ul style="list-style-type: none"> <li>- Ensure staff are well trained</li> <li>- Insurance cover in place for potential fraud and dishonesty and theft</li> <li>- Insurance cover in place for loss of Money</li> <li>- Maintain adequate Reserves</li> </ul>  |
| 7 | FT      | Cash collection contract<br><ul style="list-style-type: none"> <li>- Firm collapses</li> <li>- Theft by company</li> </ul>  | Low / Low<br>Low / Low                                 | <ul style="list-style-type: none"> <li>- Loss of money (up to £200k)</li> </ul>  | Head of Finance   | <ul style="list-style-type: none"> <li>- Continue daily monitoring of cash banked</li> <li>- Regular communication with supplier if the contract is not complied with               <ul style="list-style-type: none"> <li>- Insurance (A new cash Collection company was employed from November 2013)</li> </ul> </li> </ul> |
| 8 | FT      | Uninsured properties / risks  | Low / Medium   | <ul style="list-style-type: none"> <li>- Properties not insured               <ul style="list-style-type: none"> <li>- Loss of money in the event of uninsured loss</li> </ul> </li> </ul> | Head of Finance   | <ul style="list-style-type: none"> <li>- Ensure thorough renewals process each year               <ul style="list-style-type: none"> <li>- Make sure we liaise with estates/building services to ensure all properties are properly insured.</li> </ul> </li> </ul>   |
| 9 | FT      | Business Continuity   | Low/ High  | <ul style="list-style-type: none"> <li>- Loss of Income,</li> <li>- Payments not made,</li> <li>- Treasury Management –</li> </ul>   | <ul style="list-style-type: none"> <li>- Head of Finance</li> <li>- Chief Accountant</li> </ul> | <ul style="list-style-type: none"> <li>- Robust HBC financial systems</li> <li>- HBC business continuity planning</li> </ul>  |

|    | Service | Potential Risk   | Risk Rating (Likelihood / Impact) | Potential Impact  | Responsibility for controls  | Steps to mitigate risk, time frame for implementation and latest position   |
|----|---------|--|-----------------------------------|---|--|---|
|    |         |  |                                   | financial loss  |  |   |
| 10 | FT      | Loss of key staff  | Low / Medium                      | <ul style="list-style-type: none"> <li>- Stress</li> <li>- Errors / omissions</li> <li>- Financial loss</li> <li>- Poor advice</li> </ul>   | <ul style="list-style-type: none"> <li>- Chief Accountant</li> <li>- Head of Finance</li> <li>- Chief Legal Officer               <ul style="list-style-type: none"> <li>- Executive Manager</li> </ul> </li> <li>- People and Organisational Development</li> </ul> | <ul style="list-style-type: none"> <li>- Keep staff motivated</li> <li>- Ensure knowledge is shared</li> <li>- Terms and Conditions</li> </ul>  |
| 11 | FT      | Changes in Financial legislation – Financial accounts compliance with Charity SORP                         | Low / Medium                      | <ul style="list-style-type: none"> <li>- Failure to produce accounts</li> <li>- Qualified by auditor</li> <li>- Staff time</li> <li>- Staff costs</li> <li>- Reputation undermined</li> </ul> | <ul style="list-style-type: none"> <li>- Head of Finance</li> <li>- Chief Accountant</li> </ul>  | <ul style="list-style-type: none"> <li>- Work with Manningtons experienced firm               <ul style="list-style-type: none"> <li>- Regular liaison with HBC external auditors (BDO) and also Foreshore Trust auditors (Manningtons)</li> <li>- Train staff</li> </ul> </li> </ul> |
| 12 | FT      | Budget settings <ul style="list-style-type: none"> <li>- No decisions</li> <li>- Late decisions</li> </ul> | Low / Medium                      | <ul style="list-style-type: none"> <li>- Poor Financial management</li> </ul>   | <ul style="list-style-type: none"> <li>- Head of Finance</li> <li>- Chief</li> </ul>   | <ul style="list-style-type: none"> <li>- Ensure regular budget monitoring reports distributed.</li> <li>- Report variance reporting through</li> </ul>  |

|    | Service | Potential Risk   | Risk Rating (Likelihood / Impact) | Potential Impact                               | Responsibility for controls | Steps to mitigate risk, time frame for implementation and latest position   |
|----|---------|--|-----------------------------------|--|-----------------------------|---|
|    |         | - No processes   |                                   |  | Accountant                  | performance review<br>- Provide appropriate financial advice to members and officers<br>- Consider Whole life costing of decisions/ projects<br>- Consider Revenue Implications of new projects |
| 13 | FT      | External suppliers<br>- Bankruptcy, Administration                             | Medium / High                     | - Depends which contract                       | - Chief Accountant          | - Financial health checks on contracts  |
| 14 | FT      | Unsafe structures leading to Public Liability Claims e.g. injury on trust land | Medium/Medium                     | - Financial Loss<br>- Reputation               | - Resorts Services Manager  | - Regular evidenced inspections carried out.<br>- Proactive works maintenance programme carried out   |
| 15 | FT      | Changes in legislation – Charity Law   | Low/Medium                        | - Reputation undermined<br>- Financial penalty | - Chief Legal Officer       | - Professionally trained legal staff  |
|    |         |  |                                   |  |                             |   |

## Foreshore Trust - Reserves Policy

This policy will be reviewed on a regular basis to take account of changes to the future plans of the Trust and perceived risks. Reserves are maintained for a variety of reasons as identified 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.

Policy: £100,000 be retained to meet an unforeseen emergency or other unexpected event.

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

The expenditure budget is some £865,000. It is suggested that a 10% contingency (say £90,000) be 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.

It is recommended that the equivalent of 6 months income be 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. resurfacing of car parks, roadways, etc, that will necessitate identification and retention of significant sums within the accounts

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

Based on the financial year the cash flow is expected to be positive throughout the year i.e. income generated should exceed expenditure. Where significant one off expenditure is incurred e.g. resurfacing, use of reserves would be used to cover any shortfalls. As such no sum is set aside for this specific purpose – especially given the sums detailed above (a to d).

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

| <b>Ref.</b> | <b>Risk Area/ Designated Funds</b>       | <b>Amount (£)</b> |
|-------------|--|-------------------|
| a)          | Unforeseen emergency/event               | £100,000          |
| b)          | Unforeseen operational costs/contingency | £ 90,000          |
| c)          | Uncertainty on Income streams            | £500,000          |
|             | <b>Total</b>                             | <b>£690,000</b>   |
| Plus        | Planned Spending Commitments e.g. R&R    |                   |
|             |  |                   |

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# Hastings and St Leonards Foreshore Charitable Trust

## Appendix 1

Actual expenditure 31May 2014 year to date

| SUMMARY - MONITORING REPORT                        |       | Original Budget<br>2014-15 | YTD Actual 2014-<br>15 | Estimate to end of<br>year | Revised<br>Estimated<br>Outturn 2014-15 | Variance to<br>Budget |
|--|-------|----------------------------|------------------------|----------------------------|---|-----------------------|
| Notes  | £'000 | £'000                      | £'000                  | £'000                      | £'000                                   | #                     |
| <b>Incoming Resources</b>                          |       |                            |                        |                            |   |                       |
|  |       | (7)                        | (1)                    | (6)                        | (7)                                     | 0                     |
| Investment Income                                  |       | (7)                        | (1)                    | (6)                        | (7)                                     | 0                     |
| Incoming resources from Charitable activities<br>* |       | (920)                      | (182)                  | (738)                      | (920)                                   | 0                     |
| Rental income                                      |       | (160)                      | (32)                   | (128)                      | (160)                                   | 0                     |
| <b>Total incoming resources</b>                    |       | <b>(1,087)</b>             | <b>(215)</b>           | <b>(872)</b>               | <b>(1,087)</b>                          | <b>0</b>              |
| <b>Resources Expended</b>                          |       |                            |                        |                            |   |                       |
| Charitable Activities* (excluding Capital charges) | 1     | 704                        | 14                     | 690                        | 704                                     | 0                     |
| Maintenance projects and cyclical repairs          |       | 35                         | 1                      | 34                         | 35                                      | 0                     |
| Governance costs                                   | 1     | 98                         | (2)                    | 100                        | 98                                      | (0)                   |
| <b>Total resources expended</b>                    |       | <b>837</b>                 | <b>13</b>              | <b>824</b>                 | <b>837</b>                              | <b>(0)</b>            |
| <b>Total Operating (Surplus)/Deficit</b>           |       | <b>(250)</b>               | <b>(202)</b>           | <b>(48)</b>                | <b>(250)</b>                            | <b>0</b>              |
| Grants   |       | 50                         | -2                     | 52                         | 50                                      | 0                     |
| Events   |       | 26                         | 6                      | 20                         | 26                                      | 0                     |
| Projects   |       | 273                        | 53                     | 370                        | 423                                     | 150                   |
| <b>(Surplus)/Deficit</b>                           |       | <b>99</b>                  | <b>(145)</b>           | <b>394</b>                 | <b>249</b>                              | <b>150</b>            |
| <b>Interest Income &amp; Depreciation non HBC</b>  |       | <b>(7)</b>                 | <b>(1)</b>             |                            | <b>(7)</b>                              |                       |
| <b>Transfer to/(from) HBC account</b>              |       | <b>92</b>                  | <b>(144)</b>           |                            | <b>256</b>                              |                       |
| Total Funds brought forward                        |       | 1,316                      |                        |                            | 1,316                                   |                       |
| Total funds carried forward                        |       | 1,217                      |                        |                            | 1,067                                   |                       |

\*Mainly parking income

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## Appendix 1A

| DETAILED - MONITORING REPORT                       | Original Budget<br>2014-15 | YTD Actual 2014-<br>15 | Estimate to end of<br>year | Revised<br>Estimated<br>Outturn 2014-15 | Variance to<br>Budget |
|--|----------------------------|------------------------|----------------------------|---|-----------------------|
|  | £                          | £                      | £                          | £                                       | £                     |
| <b>Cost of Charitable activities - by activity</b> |                            |                        |                            |   |                       |
| Car parking - operating costs                      | 210,210                    | (15,710)               | 225,920                    | 210,210                                 | 0                     |
| Stade & Foreshore - operating costs                | 202,090                    | 24,000                 | 178,090                    | 202,090                                 | 0                     |
| Stade hall & Stade Open Space MUGA                 | 16,550                     | (4,320)                | 20,870                     | 16,550                                  | 0                     |
| Depreciation**                                     | 0                          | 0                      | 0                          | 0                                       | 0                     |
| Other direct premises costs - cleaning             | 101,510                    | (3,210)                | 104,720                    | 101,510                                 | 0                     |
| Other direct costs                                 | 63,630                     | 610                    | 63,020                     | 63,630                                  | 0                     |
| Street Cleansing                                   | 87,990                     | 11,670                 | 76,320                     | 87,990                                  | 0                     |
| Other Recharges                                    | 22,040                     | 1,310                  | 20,730                     | 22,040                                  | 0                     |
| <b>Total</b>                                       | <b>704,020</b>             | <b>14,350</b>          | <b>689,670</b>             | <b>704,020</b>                          | <b>0</b>              |
| <b>Maintenance projects and cyclical repairs</b>   |                            |                        |                            |   |                       |
| Maintenance projects (Direct B020)                 | 35,000                     | 580                    | 34,420                     | 35,000                                  | 0                     |
| <b>Governance costs</b>                            |                            |                        |                            |   |                       |
| Accountancy fees - 12/13 estimated                 | 0                          | 0                      | 0                          | 0                                       | 0                     |
| Direct HBC costs- estimated                        | 56,780                     | 0                      | 56,780                     | 56,780                                  | 0                     |
| Auditors remuneration 12/13 estimated              | 3,500                      | (3,500)                | 7,000                      | 3,500                                   | 0                     |
| Protectors fees                                    | 10,000                     | 60                     | 9,940                      | 10,000                                  | 0                     |
| Legal and Professional fees                        | 8,470                      | 540                    | 7,930                      | 8,470                                   | 0                     |
| Responsibility allowance - Chair                   | 1 6,000                    | 1,010                  | 4,990                      | 6,000                                   | 0                     |
| Insurance  | 13,000                     | 0                      | 13,000                     | 13,000                                  | 0                     |
| Trustees reimbursement & meeting costs             | 0                          | 0                      | 0                          | 0                                       | 0                     |
| <b>Total</b>                                       | <b>97,750</b>              | <b>(1,890)</b>         | <b>99,640</b>              | <b>97,750</b>                           | <b>0</b>              |
| <b>Grants</b>                                      |                            |                        |                            |   |                       |
| Grants -   | 50,000                     | (2,255)                | 52,255                     | 50,000                                  | 0                     |
| <b>Total</b>                                       | <b>50,000</b>              | <b>(2,255)</b>         | <b>52,255</b>              | <b>50,000</b>                           | <b>0</b>              |
| Events   | 0                          |                        |                            | 0                                       |                       |
| Hastings Annual Free Beach Concert                 | 2,000                      |                        | 2,000                      | 2,000                                   | 0                     |
| Hastings & District Canoe Club                     | 1,400                      | 1,260                  | 140                        | 1,400                                   | 0                     |
| Idolrich Theatre Rotto Productions                 | 2,000                      |                        | 2,000                      | 2,000                                   | 0                     |
| Labyrinth Arts / Community Bicycle Workshop        | 1,960                      |                        | 1,960                      | 1,960                                   | 0                     |
| Hastings Predators Floorball Club                  | 1,817                      | 1,635                  | 182                        | 1,817                                   | 0                     |
| St Michaels Hospice                                | 2,000                      | 1,800                  | 200                        | 2,000                                   | 0                     |
| Hastings Borough Bonfire Society                   | 2,000                      |                        | 2,000                      | 2,000                                   | 0                     |
| 18 Hours Ltd                                       | 2,000                      |                        | 2,000                      | 2,000                                   | 0                     |
| The Hastings Storytelling Festival                 | 2,000                      |                        | 2,000                      | 2,000                                   | 0                     |
| Central St Leonards Town Team                      | 2,000                      |                        | 2,000                      | 2,000                                   | 0                     |
| Hastings Fat Tuesday                               | 2,000                      |                        | 2,000                      | 2,000                                   | 0                     |
| Respond Academy                                    | 2,000                      | 1,800                  | 200                        | 2,000                                   | 0                     |
| Albion in the Community                            | 1,065                      |                        | 1,065                      | 1,065                                   | 0                     |
| Mermaids on the Beach                              | 2,000                      |                        | 2,000                      | 2,000                                   | 0                     |
| <b>Total</b>                                       | <b>26,242</b>              | <b>6,495</b>           | <b>19,747</b>              | <b>26,242</b>                           | <b>0</b>              |

\*\* Capital charges of £26,840 are budgeted for but not included as they do not effect the cash position

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## Business Plan

## Appendix 2

| Foreshore Trust Spending Plan                      |     |                              |                                       | 2013-2014      | 2014-2015        | 2014-2015             | 2015-2016      | 2016-2017     | Total                      |
|--|-----|------------------------------|---------------------------------------|----------------|------------------|-----------------------|----------------|---------------|----------------------------|
| Cost centre  | (*) | PROPERTY                     | DESCRIPTION OF WORK                   | Actual         | Revised ESTIMATE | Actual to 31 May 2014 | ESTIMATE       | ESTIMATE      | REVISED ESTIMATE 2014-2017 |
|  |     |                              |                                       | £              | £                |                       | £              | £             | £                          |
| <b>Maintenance projects within HBC budget</b>      |     |                              |                                       |                |                  |                       |                |               |                            |
| 5290B020   | *   | Pier Area                    | Area inspections and repairs          | 0              | 3,000            |                       | 3,000          | 3,000         | 9,000                      |
| 5290B020   | *   | White Rock Baths             | External redecoration                 | 101            |                  | 272                   | 15,000         | 15,000        | 30,000                     |
| 5290B020   | *   | Stade Barriers               | Annual maintenance                    | 1,490          | 2,000            |                       | 2,000          | 2,000         | 6,000                      |
| 5290B020   | *   | Cycle route                  | Contribution to maintenance           |                |                  |                       |                |               | 0                          |
| 5290B020   | *   | Public Conveniences          | Maintenance                           | 247            | 6,000            |                       | 6,000          | 6,000         | 18,000                     |
| 5290B020   | *   | Public Conveniences - Pelham | Refurbishment                         | 58,007         |                  |                       |                |               | 0                          |
| 5290B020   | *   | Car Parks Rock a Nore        | Maintenance                           | 6,839          | 6,000            |                       | 6,000          | 6,000         | 18,000                     |
| 5290B020   | *   | Car Parks - Pelham           | Maintenance                           | 166            | 6,000            |                       | 6,000          | 6,000         | 18,000                     |
| 5290B020   | *   | Sticks of Rock               |                                       |                |                  |                       |                |               | 0                          |
| 5290B020   | *   | Winch Road                   | Resurfacing                           |                |                  |                       |                |               | 0                          |
| <b>Total of Cyclical Repairs and Redecorations</b> |     |                              |                                       | <b>66,850</b>  | <b>23,000</b>    | <b>272</b>            | <b>38,000</b>  | <b>38,000</b> | <b>99,000</b>              |
| 5290B020   | *   | Pier Area                    | Toilet concrete repairs               |                |                  |                       |                |               | 0                          |
| 5290B020   | *   | Beach steps                  | Replacement                           | 11,060         | 12,000           | 303                   | 12,000         | 12,000        | 36,000                     |
| 5290B020   | *   | Beachfront Railings          | Marina area                           |                |                  |                       | 15,000         | 15,000        | 30,000                     |
| <b>Total Maintenance Projects</b>                  |     |                              |                                       | <b>11,060</b>  | <b>12,000</b>    | <b>303</b>            | <b>27,000</b>  | <b>27,000</b> | <b>66,000</b>              |
| <b>Projects (Main programme)</b>                   |     |                              |                                       |                |                  |                       |                |               |                            |
|  |     |                              |                                       | 2013-2014      | 2014-2015        | 2014-2015             | 2015-2016      | 2016-2017     | Total                      |
|  |     |                              |                                       | Actual         | ESTIMATE         | Actual to 31 May 2014 | ESTIMATE       | ESTIMATE      | REVISED ESTIMATE 2014-2017 |
| 5291B022   | *   | White Rock Baths             | Reinstatement of sewerage             | 29,794         |                  |                       |                |               | 0                          |
| 5291B022   | *   | White Rock Baths             | Promenade waterproofing               |                |                  |                       | 50,000         |               | 50,000                     |
| 5291B022   | *   | White Rock Baths             | Concrete repairs(excl baths)          |                |                  |                       |                |               | 0                          |
| 5291B022   | *   | White Rock Baths             | Contribution to tenant fitout**       | 178,076        | 150,000          | 550                   | 300,000        |               | 450,000                    |
| 5292B022   | *   | Marina Chalets               | Purchase 10 new chalets               | 11,770         |                  | (11,660)              |                |               | 0                          |
| 5293B022   | *   | Beachfront                   | New signage to RNLI standard          |                |                  |                       |                |               | 0                          |
| 5293B022   | *   | Beachfront                   | Fitness kit & distance marking        |                |                  |                       |                |               | 0                          |
| 5289 B022  | *   | Beachfront                   | Stade Kitchen**                       | 35,050         |                  | 24,960                |                |               | 0                          |
| 5293B022   | *   | Beachfront                   | Big Beach Project**                   |                | 153,000          |                       |                |               | 153,000                    |
| 5293B022   | *   | Beachfront                   | Transforming Stade Open Space**       | 210            | 10,000           |                       |                |               | 10,000                     |
| 5295B022   | *   | Beachfront                   | Environmentally Sustainable Tourism** |                | 25,000           | 35,810                |                |               | 25,000                     |
| 5293B022   | *   | Beachfront                   | children's play area                  |                |                  |                       |                |               | 0                          |
| 5293B022   | *   | Beachfront                   | Pelham play ground resurfacing        | 59,710         |                  | 3,490                 |                |               | 0                          |
| 5293B022   | *   | Beachfront                   | Railings at Rock a Nore               |                | 40,000           |                       |                |               | 40,000                     |
| 5295B022   | *   | Pelham Place Car Park        | Credit card machines                  | 15,667         |                  |                       |                |               | 0                          |
| 5294B022   | *   | Car Parks                    | Improved signage                      |                | 20,000           |                       |                |               | 20,000                     |
| 5294B022   | *   | Rock a Nore Car Park         | Surface/line unpaved area             |                |                  |                       |                |               | 0                          |
| 5295B022   | *   | Pelham Place Car Park        | Repaving + 25 spaces                  | 18,243         |                  |                       |                |               | 0                          |
| 5296B022   | *   | Contingency                  |                                       |                | 25,000           |                       | 25,000         | 25,000        | 75,000                     |
| <b>Total Programme</b>                             |     |                              |                                       | <b>348,520</b> | <b>423,000</b>   | <b>53,150</b>         | <b>375,000</b> | <b>25,000</b> | <b>823,000</b>             |

\* Schemes can proceed without further approval - other than contract approvals or where charity committee requires it.

\*\* Fisheries Local Action Group (FLAG) projects

\*\*\*\* Scheme cost £822K (funding £300K HBC loan, £172K HBC, £200K ESCC)

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**Agenda Item No:** 6

**Report to:** Charity Committee

**Date of Meeting:** 30 June 2014

**Report Title:** Seafront Byelaw Review

**Report By:** Virginia Gilbert  
Head of Amenities, Resorts and Leisure

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## **Purpose of Report**

The report summarises the range of current byelaws that are relevant to the seafront, including land owned by the Foreshore Trust and provides a context for their review. It also details the specific activities for inclusion in the draft model byelaw.

---

## **Recommendation(s)**

- 1. That the Charity Committee support a review and replacement of our many, old existing byelaws with the model byelaws, tailored for Hastings' requirements.**
- 2. That Charity Committee support the recommendations of the Zoning Working Group to include the general activities listed in the proposed model byelaws within this report.**

---

## **Reasons for Recommendations**

The current range of existing byelaws for the seafront and foreshore are outdated and in some cases irrelevant. A preliminary review has been undertaken and we are proposing to adopt modern model byelaws with modifications for additional activities we wish to include.

The report sets out the detail of the activities to be included in the model byelaws for onward informal and formal consultation. Although the Foreshore Trust does not have the power to make byelaws the Council is consulting with the Charity Committee to seek its support as landowner and major stakeholder.

---

## Introduction

1. A working group of the Coastal User Group has been looking at the management of coastal leisure activities for some time. The objective has been to try and improve safety for all beach users, reduce potential conflict between different user groups and to encourage a more even spread of activities.
2. The working group has included representatives from beach hut users, fishing clubs, wind surfers & kite surfers, swimmers & voluntary lifeguards, commercial fishermen, HBC Councillors and officers.
3. This has considered a range of options to try and influence behaviour and where certain activities take place including revisions to signage, pre-arrival information on the HBC and other websites, direct liaison with groups and clubs and also suggested a review of the current byelaws that are relevant to our promenade and seashore.
4. An initial assessment of our current byelaws has shown that they can be difficult to understand for members of the public, have inappropriate levels of penalty and in some cases are no longer relevant.
5. Discussion with the Chief Legal Officer and research with other coastal authorities has revealed that it is a relatively straightforward process to review and rationalise the existing range of outdated byelaws. This would replace them with two Model Byelaws that cover the whole range activities arranged in a Byelaw for Promenades and a Byelaw for the Seashore. Both of these would have an impact on land owned and managed by the Foreshore Trust.

## Current Situation

6. The existing byelaws for the promenade and seashore are summarised below:
  - Parades, Stades, Foreshore and Sands 1885, penalty £5 - covers various activities behaviour(including fighting and indecent posture!), performance etc.
  - Navigation of Sailboards 1987, penalty £100 - covers windsurfing
  - Seaside Pleasure Boats 1967, penalty £20 - covers various boating
  - Public Bathing 1956, penalty £5, - covers bathing huts, red flag safety system
  - Selling & Hawking 1906, penalty £5 - covers trading
  - Skateboarding 1990, penalty level 2 - covers skateboarding, rollerskating, (Legal to confirm current levels)
  - Littering 1928, penalty 40 shillings
  - Danger, Obstruction or Annoyance to persons using the promenade 1964, penalty £5 - covers vehicles, trailers
  - Wireless Sets etc. 1963, penalty £5 - covers amplified noise nuisance



- Street Collections 1981, penalty tbc
- Waterclosets, Urinals, Lavatories, penalty - covers charges or public toilets
- Fishmarket 1956, penalty £5 - fish processing and sales
- Stade or Stonebeach 1897, penalty 40 shillings - covers fishing industry
- (previous dog control and street drinking byelaws have been superceded and revoked)

## Proposed Review

7. The review involves consultation including with the Foreshore Trust as an additional landowner and Coastal User Group. This would be followed by extensive informal consultation with sports, leisure and other user groups and other relevant local organisations including disability groups.
8. The draft byelaws would then be advertised and consulted on formally before final approval and adoption by the Council. A more detailed programme is detailed in appendix A.
9. Each of the two byelaws covering the Promenades and Seashore would need to define the areas that the byelaws apply to through both description and accompanying map/plan. The map will be drawn up once the principle of each of the items to be included has been agreed.
10. It is proposed that they would include the following:-

## Proposed Byelaws for Promenades (Prohibitions)

**Cycling** - No person shall without reasonable excuse ride a cycle on the promenade except where there is a right of way or a designated route for cycles.

**Motor vehicles** - No person shall without the consent of the Council drive or bring a motor vehicle or trailer onto the promenade except on any part of the promenade where there is a right of way for that class of vehicle.

**Public Shows and Performances** - No person shall without prior consent deliver any lecture, sermon or speech or perform any music or hold any entertainment except in a designated area for such performances. No person shall use any designated area for performances in such a manner as to cause obstruction or annoyance to any person using it for any purpose for which it has been set apart.

**Trading** - No person shall without prior consent and relevant licences:-

- (a) Sell or hawk any food or drink
- (b) Advertise or solicit custom for any service
- (c) distribute handbills, circulars or advertisements

Or in such a manner as to cause obstruction or annoyance to any person on the promenade.

Skateboarding, wheel based activities etc. - No person shall skate, slide or ride on rollers, skateboards or other self-propelled vehicles on the promenade except in designated areas (it is proposed that the designated areas are the same as those allowed for cycling but this will be consulted on). No person shall skate, slide or ride on rollers or other self-propelled vehicles on the promenade in such a manner as to cause danger or give reasonable grounds for annoyance to other persons using the promenade.

Protection of Flower Beds and Planting - No person shall walk on or ride over:-

- (a) Any flower bed, shrub or plant
- (b) Any ground in the course of preparation as a flower bed or for the growth of any tree, shrub or plant
- (c) Any area of the promenade set aside by the Council for the renovation of turf or for other landscaping purposes and indicated by a notice conspicuously displayed.

Erection of Structures - No Person shall without the consent of the Council erect any barrier, post, ride or swing, building or any other structure on the promenade. No person shall without consent , remove from or displace any barrier, post or seat or any part of any structure or ornament or any notice or flag displayed by or on behalf of the Council or any other competent authority.

Removal of Signs and Structures & Interference with Lifesaving Equipment - No person shall, except in the case of emergency, remove from or displace any sign, structure or life-saving appliance or other public rescue equipment provided by or on behalf of the Council or other competent authority on the promenade.

Obstruction of a Council officer in execution of their duties - No person shall on the promenade:-

- (a) Obstruct any officer of the Council in the proper execution of their duties
- (b) Obstruct any person carrying out an act which is necessary to the proper execution of a contract with the Council

## **Proposed Byelaw for the Seashore**

Sand lines - No sandlines shall be laid in such a position as to be likely to cause injury to any person using the seashore and all sandlines shall be visibly marked

Public Shows and Performances - No person shall without prior consent deliver any lecture, sermon or speech or perform any music or hold any entertainment except in a designated area for such performances. No person shall use any designated area for performances in such a manner as to cause obstruction or annoyance to any person using it for any purpose for which it has been set apart.

Trading - No person shall without prior consent and relevant licences:-

- (a) Sell or hawk any food or drink
- (b) Advertise or solicit custom for any service
- (c) distribute handbills, circulars or advertisements

Or in such a manner as to cause obstruction or annoyance to any person on the promenade.

Fires - No person shall on the seashore light a fire, or place throw or drop a lighted match or any other thing likely to cause a fire. Byelaw shall not apply:-

- (a) In a designated area for barbeques, to the lighting or use in such a manner as to safeguard against damage or danger of a properly constructed camping stove or barbeque in such a manner as to safeguard against damage or danger
- (b) To the lighting of the fire on the seashore with the consent of the Council.

Parties - No person shall hold a party on the seashore without the consent of the Council (in the model byelaw 'party' means an event attended by 15 or more people at which music will be played)

Boats - No person shall except in cases of emergency or by prior consent of the Council launch, land or use craft (requires further definition) in the following restricted areas:-

- (a) Stade Fishing Beach (with the exception of Registered Fishermen)
- (b) Pelham Beach (area to be defined on map)
- (c) Marina Beach (area to be defined on map)

No person shall exceed 8 knot speed within defined areas (area to be defined on map as per current arrangements)

Camping - Unauthorised erection of structures, camping

- (1) No person shall on the seashore, without the consent of the Council, erect a tent or use any vehicle, including a caravan, or any other structure for the purpose of camping.
- (2) The byelaw (1) shall not apply to personal windbreaks and sunshades

Removal of Signs and Structures & Interference with Lifesaving Equipment - No person shall, except in the case of emergency, remove from or displace any sign, structure or life-saving appliance or other public rescue equipment provided by or on behalf of the Council or other competent authority on the promenade.

Obstruction of a Council officer in execution of their duties - No person shall on the promenade:-

- (a) Obstruct any officer of the Council in the proper execution of their duties
- (b) Obstruct any person carrying out an act which is necessary to the proper execution of a contract with the Council

11. Both byelaws would also include the exclusions of HBC officers undertaking the execution of their duties.
12. We would also propose offences against the byelaws to be liable to a fine not exceeding level 2 on the standard scale (£500)
13. The adoption of the model byelaws would confirm the revoking of previous relevant byelaws.

## Recommendations

14. That the Charity Committee support a review and replacement of our many, old existing byelaws with the model byelaws, tailored for Hastings' requirements.

15. That Charity Committee support the recommendations of the Zoning Working Group to include the general activities listed in the proposed model byelaws within this report.

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**Wards Affected**

Castle, Central St. Leonards, Old Hastings, West St. Leonards

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**Area(s) Affected**

Central Hastings, East Hastings, South St. Leonards

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**Policy Implications**

Please identify if this report contains any implications for the following:

|                                       |     |
|---------------------------------------|-----|
| Equalities and Community Cohesiveness | No  |
| Crime and Fear of Crime (Section 17)  | No  |
| Risk Management                       | Yes |
| Environmental Issues                  | No  |
| Economic/Financial Implications       | No  |
| Human Rights Act                      | Yes |
| Organisational Consequences           | Yes |
| Local People's Views                  | Yes |

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**Background Information**

Appendix 1 - Timetable

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**Officer to Contact**

Nick Sangster  
nsangster@hastings.gov.uk  
01424 451138

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## Appendix A

|   |   |                                   |
|---|---|-----------------------------------|
| Zoning Working Group  | Agree general range of byelaws for inclusion  | 20.11.13                          |
| Coastal User Group  | Report on process and proposal to adopt model byelaws and revoke existing           | 11.03.14                          |
| Zoning Working Group  | Produce draft byelaw (including areas) preparation by Legal Services                | 25.03.14                          |
| Coastal User Group  | Informal Consultation on proposed byelaws   | 10.06.14                          |
| Charity Committee   | Informal Consultation on proposed byelaws   | 30.06.14                          |
| Informal Consultation   | Website –<br>Public Meetings –<br>Write to clubs -                                  | 01.07.14 –<br>30.09.14            |
| Zoning Working Group  | Assess feedback received and adapt draft byelaw if necessary                        | Mid October 2014                  |
| Cabinet   | Seek support for final version of model byelaws                                     | 01.12.14                          |
| Charity Committee   | Seek support for final version of model byelaws                                     | 08.12.14                          |
| Full Council  | Byelaws are made  | 17.12.14                          |
| Formal advertising  | 4 week period in local papers / website. Public feedback direct to DCLG             | 01.01.15 – 31.01.15               |
| HBC write to DCLG   | Advise of intention to make byelaws, process to date and formal advertising period. | 01.01.15 – 31.01.15               |
| Remains on deposit<br>DCLG write and advise of any objections | For a further month<br>These need to be dealt with to the satisfaction of DCLG      | 01.02.15 – 28.02.15<br>March 2015 |
| Effective date  | Byelaws take effect   | 01.04.15                          |

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## Extract of Foreshore Trust Items from

### NOTES of

### Hastings & St. Leonards Coastal Users' Group

### Meeting held on Tuesday, 10th June 2014 @ 1800hrs.

#### Present:

Laurence Bell, White Rock & America Ground Business Group

Jill Bradley, HOTRA

Alan Care, Hastings and Rother Disability Forum

Paul Carter, East Hastings Angling Association (Chair)

Kevin Boorman, HBC Head of Marketing & Communications

Christine Boulton-Lane, West of Haven Beach Users Association

Di Cooke, Hastings Lifeguards

Virginia Gilbert, HBC Head of Amenities, Resorts & Leisure Services

Tim Godwin, HUB

Cllr Mike Howard, HBC (West St Leonards Ward) *(Part from 1910hrs)*

Cherry Longley, HBC

Susie Faulkner, Hastings Windsurfing

Brendon McDonagh, Hotels and Tourism Association

Yasmin Ornsby, Stade Partnership

Steve Peak, Friends of Hastings Country Park

Councillor Dawn Poole, HBC

Chris Richards, Hastings Adventure Golf

Keith Sadler, Hastings Pier Charity

Nick Sangster, HBC Resort Services Manager

Anne Scott, Old Hastings Preservation Society

Cllr. Trevor Webb, HBC (Central St. Leonards Ward) *(Part from 1910hrs)*

#### 1. APOLOGIES

Cllr. Lee Clarke, HBC (Castle Ward)

Cliff Meaden, Hastings Windsurfing

Andre Palfrey-Martin, Nautical Heritage Assoc/Gensing & Central St. Leo Forum

Jacqui Stanford, Shipwreck Museum

Cllr. Emily Westley, HBC

#### 3. FORESHORE TRUST ITEMS

##### 3.1 Seafront Byelaws

NS presented the report regarding the proposed review and replacement of a number of old existing seafront byelaws with model byelaws adapted to Hastings needs. Recommendations and detail were provided by the Zoning Working Group (a sub group of CUG) and include general coastal leisure activities as listed in the proposed model byelaws, which should be more readily comprehensible. Informal and formal consultation will take place and maps produced to readily identify designated areas.

The Group asked for an explanation of the definitions "seashore" and "promenade". NS advised that the seashore is the beach itself and the

promenade is the area between the seashore and the road e.g. some areas which contain commercial kiosks/vehicles etc.

Queries regarding the report were raised as follows:

### **Cycling**

This byelaw is required to support the current designated cycleway etc. TG commented that it appeared a 'backwards looking byelaw' regarding fines etc. NS advised that all phrases were extracted from the model byelaws. The route runs around Sustrans route which therefore might fall foul of this byelaw however designated areas would need to be carefully scrutinised. There are national laws regarding footpaths; this byelaw will act on the designated cycle route where it will be legal.

AC felt that there are dangers/difficulties that some disabled people will find hard to cope with e.g. those with visual and audible impairments. TG commented that a shared space policy usually works well. However it was acknowledged that shared spaces function well if there is sufficient room but there can be problems at pinchpoints such as outside the Azur building. More signage and considerate cyclists who practice safe cycling will assist with this problem (e.g. if travelling at more than 12-14mph cyclists should use the roads. A separate byelaw will deal with motor vehicles.

### **Boats**

JB commented that the use of jet skis etc. are not specified in the new byelaw but felt that they should be covered as a Health & Safety issue. This byelaw is designed to protect bathers and will cover all powered craft. There will be a speed limit of 8 knots and the byelaw will propose bathing areas where powered craft are not permitted e.g. the fishing beach, Pelham beach, Marina St. Leonards.

### **Fires**

JB also commented on the subject of rubbish left behind by the public using barbeques on the beach. Measures are and will be put in place to encourage the public to use purpose-built areas. New bins and special bins together with notices will also be put in place. There will be powers for HBC to reinforce this byelaw.

### **Public Shows and Performances**

This does not include political speech where prior consent is required. HBC Events policy covers this. In any event no political items are allowed on Foreshore Trust land.

### **Comment regarding Removal of Shingle**

AS commented that this doesn't seem to appear anywhere. NS advised that the removal of Crown property is a criminal offence and is covered by criminal and environmental laws.

### **Skateboarding**

This covers all self propelled vehicles including roller skating etc. the byelaw will endeavour to legitimise some activities.

### **Erection of Structures**

Temporary kiosks will be encouraged but HBC is seeking to govern these facilities in a more controlled way.



**Deletion of Litter/Noise Nuisance Byelaws**

NS explained that these offences are covered under other national legislation in any event but are also included within the general wording in some of the model byelaws i.e. 'nuisance and annoyance'.

Noted that some dates within the report are incorrect. **Action NS**

It is expected that the consultation exercises will show how the byelaws will be enforced. If negative feedback is received then it will be taken into consideration.

Formal consultation will take approx. 3 months (July to September). Once feedback is evaluated a report will be submitted to Council in mid December and then formal advertisement. Any feedback will be forwarded to the Home Office. Formal adoption should take approx. one year.

**Recommended that the report to go forward to Charity Committee meeting 30th June. Action VG/NS**

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