

# Harborough District Council

## Report to the Services and Communities Overview and Scrutiny Panel Meeting of 6<sup>th</sup> February 2025



<b>Title:</b>	Harborough District Leisure Trust Limited
<b>Status:</b>	Public report
<b>Key Decision:</b>	No
<b>Report Author:</b>	Cat Hartley, Director of Communities & Wellbeing
<b>Portfolio Holder:</b>	Councillor Graves, Finance
<b>Appendices:</b>	None

### Executive Summary

This report provides an update in respect of the closure of the Harborough District Leisure Trust Limited, in response to a member request for transparency on where funds have been distributed to.

### Recommendations

1. To consider the update provided in this report.

### Reasons for Recommendations

1. To enable the matters detailed within this report to be considered.

## 1. Purpose of Report

This report provides an update in respect of the closure of the Harborough District Leisure Trust Limited (the Trust), in response to a member request for transparency on where funds have been distributed to. The former Trustees of the Trust have been invited to attend and/or make representations at the meeting.

## 2. Background

- 2.1 The Trust was contracted to provide leisure services to Harborough District Council between 1 May 2008 and 31 March 2019 (the Contract). The Council leased the leisure centres to the Trust for the period of the Contract (the Lease). The Contract expired on 31 March 2019.



- 2.2 The Trust is a separate legal entity from the Council and was registered under the Co-operative and Community Benefit Societies Act 2014 (the Act") with the Financial Conduct Authority (FCA). The Trust is accountable to the FCA for the way in which it conducted its affairs. The Rules of the Trust are filed on the FCA website along with accounts filed by the Trustees. The Rules set out what happens to any balance of funds once all creditors have been paid and there are specific Rules around the application of and surplus funds and the dissolution of the Trust. With effect from 22 January 2025, the Trust has been formally "wound up" and its registration under the Act has been cancelled following the dissolution of the Trust.
- 2.3 Prior to the Trust being established, consideration was given to a Council nominated representative being appointed to the Board. It was reported to Council in February 2008 that this had not been pursued in order to enable the Trust "to demonstrate that it is an independent organisation free from council influence". Provision for this was therefore not included in the Trust's Rules.
- 2.4 Based on the published accounts, the Trust's income streams included membership subscriptions, casual use of pool, gym and hall facilities, attendance at classes and courses along with sales in the cafe, reception and from vending machines. Under the Contract the Trust also received an annual subsidy for the operation of the two leisure centres from the Council.
- 2.5 It is understood that at the time the Contract ended, the Trust had approximately £105,000 in remaining funds left, which had built up gradually over a period of 10 to 15 years through the above receipts.
- 2.6 It would appear, based on the evidence reviewed, that there were some discussions between the Council and the Trust in 2020 and 2021 to consider how the funds may be distributed including a suggestion that a formal agreement be entered into to transfer the surplus funds from the Trust to the Council for distribution. This was not progressed and there is no evidence to demonstrate the reason for this. However, even if this had been progressed, ultimately it would have been a decision for the Trustees on whether they transferred the funds to the Council. Any distribution of surplus funds to a non-profit organisation is a decision for the members of the Trust on dissolution.
- 2.7 The Trust has accounted for the majority of surplus funds as paid in donations made directly by the Trust during 2021/22, in line with its Rules.
- 2.8 In line with Constitutional procedures a request has recently been made to the Finance & Performance Overview & Scrutiny Panel for a report to be brought forward. It was agreed at the December meeting of that Panel that a report would be best considered at Community & Services Scrutiny & Overview Panel.

### **3. Details**

- 3.1. The Trust is a separate legal entity and as such the Council has no remit, legal or otherwise, to request or scrutinise the expenditure of any remaining Trust funds. The Council has no rights under the Contract which had expired in 2019 and neither did the Council have any rights to extract further information from the Trust when it was being wound up. Once the Lease and Contract came to an end the Council had no entitlement either on a contractual basis or under the Lease to the information.

3.2. It could be considered to be in the interests of transparency to seek to answer the questions that have been raised on the basis that funds originated from a HDC established contract. However, ultimately any decision about the surplus funds was solely in the hands of the Trustees, after any creditors had been paid off and the Council had no power over the surplus funds held by the Trust.

3.3. The Council has expended a large amount of resource since 2023 to investigate and review from the Council's perspective what has happened and where the remaining funds have been spent. This included the Council's S151 officer commissioning an independent Internal Audit review specifically regarding the funds remaining with the Trust on "winding up" and any accountability of the funds. The Chief Internal Auditor completed their review 9 February 2024 (the Internal Audit Review). An extract from the Opinion and Conclusions of the Internal Audit Review states:

*"Evidence indicates that the Trust invited applications for grants from relevant, local groups and this was suitably publicised – both online and with paper forms at parish council sites – in 2021. This appears to support the entry in the Trust accounts for 2021/22 that £79,300 was paid out in the form of donations that year, albeit the Chief Internal Auditor has no means by which to confirm the accuracy of this reported spend; the recipients of the grants; nor the grant application process. It should be noted that the Trust's 2021/22 accounts were unaudited and reported as such."*

3.4. The Internal Audit Review noted that in 2023 the Council had sought to obtain details of the spend from both the Trust and its accountants but that no further details had been provided. The Auditor concluded based on the information provided that it appeared there was no obligation for the Trust to provide the information on the spend. This is supported by the legal advice.

3.5. The Council has written to the Trust on more than one occasion requesting information regarding the distribution of the funding by the Trust. In response the Trust confirmed that they had "been able to disperse the majority of the funds according to its stated purpose and values..." and that "the Trust will continue to disperse its remaining funds with the objective of closing the Trust and in accordance to its stated purpose and values." The Council has said it wished to celebrate the success of any funding grants to local charities, but this has not elicited a response.

## **4. Implications of Decisions**

### **4.1. Corporate Priorities**

This report does not relate to the core business of the Council and therefore the Corporate Plan priorities are not applicable.

### **4.2. Financial**

No direct financial implications arise from this report.

### **4.3. Legal**

The position of the Council is set out in the body of the report.

No direct legal implications arise from this report.

**4.4. Environmental Implications including contributions to achieving a net zero carbon Council by 2030**

None as far as this report is concerned.

**4.5. Risk Management**

None as far as this report is concerned.

**4.6. Equalities Impact**

None as far as this report is concerned.

**4.7. Data Protection**

As the report contains no personal information, the principles set out in the Data Protection Act 2018 are not engaged.

**4.8. Summary of Consultation and Outcome**

Not applicable

**5. Alternative Options Considered**

None as this report is for information.

**6. Background papers**

None.