

Birmingham City Council

Trust and Charities Committee

30 September 2024



Title:	APPROVAL OF ACCOUNTS AND APPOINTMENT OF INDEPENDENT REVIEWERS
Lead Member:	Councillor Phil Davis – Chair of Trust and Charities Committee
Relevant Overview and Scrutiny Committee:	N/A
Report Author:	Ziyaad Hauseea, Financial Consultant Finance Directorate
Authorised by:	Steve Muldoon, Business Partnering Improvement Lead and Deputy S151 Officer Finance Directorate
Is this a Key Decision?	No
If this is a Key Decision, is this decision listed on the Forward Plan?	No
Is this a Late Report?	Yes
Reason(s) why Late and confirm who has authorised it to be considered:	This report is late due to accounts filing defaults for several charities with the Charities Commission. In light of this, Councillor Phil Davis, Chair of the Trusts and Charities Committee, authorised this report on September 26, 2024, to be considered at this meeting on September 30, 2024.
Is this decision eligible for ‘call in?’	N/A
If ‘call-in’ has been dis-applied, please provide reason(s) and confirm who has authorised:	N/A

Wards: N/A

Does this report contain exempt or confidential information? No

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REFER TO GUIDANCE FOR TIPS ON FORMATTING THE REPORT.**

1 EXECUTIVE SUMMARY

- 1.1 This report seeks the approval of the Trusts and Charities Committee for the filing of several accounts and the appointment of an independent reviewer for six charities over two financial years (2021-22 and 2022-23). The urgency of this report is due to the impending filing deadlines with the Charities Commission.

2 COMMISSIONERS' REVIEW

- 2.1 Commissioners have no comments on the appointment of the independent examiner. Commissioners note that the City Council has in past years subsidised the activity of a number of the bodies where they act as Corporate Trustee. There is no obligation for the Council to provide financial support in these circumstances unless it is a specific requirement of the Trust deed. Given the financial circumstances of the Council, which requires Government support to enable it to set a lawful budget, the Committee must consider how the various bodies under its oversight can continue without any further financial contribution from Council funds.

3 RECOMMENDATIONS

- 3.1 That the Trusts and Charities Committee approves the following accounts, ready for online filing promptly:
- 3.1.1 Cropwood Estate Accounts 2020-21
 - 3.1.2 Cropwood Estate Accounts 2021-22
 - 3.1.3 Highbury Trust Accounts 2020-21
 - 3.1.4 Moseley Road Accounts 2020-21
 - 3.1.5 The Elford Estate Accounts 2020-21
- 3.2 That the appointment of Seagrave French as the independent reviewer for the accounts of six charities over two financial years (2021-22 and 2022-23) be delegated to the S151 Officer and the City Solicitor in consultation with the Chair of the Trusts and Charities Committee.

3.3 The eleven accounts that will require independent reviews for the financial years 2021-22 and 2022-23 are as follows:

Charity Number	Charity Name	2021-22	2022-23
702446	Charity of Harriet Louisa Loxton	YES	YES
1085296	The Cropwood Estate	N/A	YES
1039194	Highbury	YES	YES
1000692	The Elford Estate Charity	YES	YES
516602	Moseley Road Community Centre	YES	YES
512927	Alderson Disabled	YES	YES

4 KEY INFORMATION

Context

4.1 Several accounts are ready for filing and need the approval of the Board Committee or Trustee. Some of these accounts have already been independently reviewed and some accounts do not require an independent review or audit. Additionally, quotes have been received from three firms for independent reviews of the accounts for six charities over two financial years (2021-22 and 2022-23), with Seagrave French offering the best quote and additional savings.

Proposal and Reasons for Recommendations

4.2 The proposal is to approve the accounts ready for filing and to appoint Seagrave French as the independent reviewer. This is necessary to ensure compliance with the Charities Commission filing deadlines and to benefit from the cost savings offered by Seagrave French.

Other Options Considered

4.3 No options were considered as the urgency of the filing deadlines necessitates immediate action.

5 RISK MANAGEMENT

5.1 **Primary Risk:** The primary risk is the potential for penalties or other consequences from the Charities Commission due to delayed filings. This risk is mitigated by the immediate approval and appointment of independent reviewers.

5.2 **Legal and Regulatory Risks:** Failure to comply with statutory obligations to file annual returns, trustee's annual reports, and accounts can lead to significant legal and regulatory risks, including:

- 5.2.1 Statutory Enquiry: Automatic initiation of a statutory enquiry under section 46 of the Charities Act 2011.
- 5.2.2 Mismanagement: Potential classification of non-filing as mismanagement in administration of the charity
- 5.2.3 Legal Directions: Issuance of legal directions to comply, with failure leading to contempt of court charges.
- 5.2.4 Public Disclosure: Public disclosure of the enquiry and notification to known funders, which can damage the reputation and funding opportunities.
- 5.3 Financial Risks: Non-compliance with filing requirements can result in financial penalties and increased scrutiny from the Charities Commission.
- 5.4 Mitigation Strategies: To mitigate these risks, the following strategies should be implemented:
 - 5.4.1 Timely Filing: Ensure all outstanding accounts are filed as soon as possible
 - 5.4.2 Appointment of Independent Reviewers: Approve and appoint independent reviewers to ensure compliance with statutory requirements.
 - 5.4.3 Regular Monitoring: Implement regular monitoring and review processes to ensure ongoing compliance with filing requirements.

6 CONSULTATION

- 6.1 Consultation has taken place with relevant stakeholders, including the Chair of the Trusts and Charities Committee, Preparers of the accounts, Business Partnering Improvement Lead and Deputy S151 Officer, the Charities Commission and the Assistant Director of Legal Services.

7 MEMBER ENGAGEMENT

Not applicable

8 IMPACT AND IMPLICATIONS

Finance and Best Value

- 8.1 The appointment of Seagrave French as the independent reviewer offers significant cost savings compared to the other quotes received.

Legal

- 8.2 There are significant legal implications from the recommendations in this report. The Charity Commission has notified Trustees of the Charity's failure to file annual accounting information for the financial years ending 31 March 2021, 2022 and 2023. This non-compliance has escalated to a formal investigation under section 46 of the Charities Act 2011. Additionally, under section 84 of the Charities Act 2011, the Charity Commission has the authority to issue specific

directions to protect the charities. Failure to comply with these directions can result in legal implications.

8.3 Statutory Obligations: All registered charities must file annual returns, trustees' annual reports, and accounts. The requirements vary based on the charity's income:

8.3.1 Income up to £10,000: Complete the relevant sections (income and expenditure) of the annual return.

8.3.2 Income above £10,000: Prepare and file an annual return.

8.3.3 Income above £25,000: File copies of the trustee's annual report and accounts

8.4 Consequences of non-compliance:

8.4.1 Automatic initiation of a statutory enquiry.

8.4.2 Potential classification of non-filing as mismanagement or misconduct

8.4.3 Possible legal directions to comply, with failure leading to contempt to court charges

8.4.4 Public disclosure of the enquiry and notification to known funders.

8.5 Statutory requirements for independent examination and audit of charity accounts: These requirements are set out in the Charities Act 2011 and the Charities (Accounts and Reports) Regulations 2008.

8.5.1 Income up to £25,000:

8.5.1.1. No statutory requirement for an independent examination or audit.

8.5.2 Income over £25,000 but not exceeding £250,000:

8.5.2.1. Statutory requirement for an independent examination.

8.5.3 Income over £250,000 but not exceeding £1 million, and gross assets not exceeding £3.26 million:

8.5.3.1. Statutory requirement for an independent examination by a qualified person or an audit by a registered statutory auditor.

8.5.4 Income over £250,000 and gross assets exceeding £3.26 million, or income exceeding £1 million:

8.5.4.1. Statutory requirement for an audit by an registered statutory auditor.

Equalities

8.6 There are no equalities implications arising from the recommendations in this report.

Procurement

- 8.7 There are procurement implications arising from this report. We have obtained quotes from three firms and have recommended Seagrave French. While we have initially requested quotes as part of preliminary market research to understand the available options and costs, we will now proceed with the appropriate procurement process to ensure compliance with procurement regulations. This process will ensure transparency, fairness, and adherence to best practices. The firms from which we have requested quotes have all previously audited charities under the BCC umbrella.

People Services

- 8.8 There are no staffing implications arising from the recommendations in this report.

Climate Change, Nature and Net Zero

- 8.9 There are no climate change, nature and net zero carbon implications arising from the recommendations in this report.

Corporate Parenting

- 8.10 There are no implications or opportunities in relation to the Corporate Parenting responsibility arising from the recommendations in this report.

Other

- 8.11 There are no other implications arising from the recommendations in this report.

9 APPENDICES

- 9.1 Appendix One - Cropwood Estates Accounts 2020-21
- 9.2 Appendix Two - Cropwood Estates Accounts 2021-22
- 9.3 Appendix Three - Highbury Trust Accounts 2020-21 (Independently Reviewed)
- 9.4 Appendix Four – Moseley Road Accounts 2020-21 (Independently Reviewed)
- 9.5 Appendix Five – The Elford Estate Accounts 2020-21 (Independently Reviewed)
- 9.6 Appendix Six - Criteria Evidence Evaluation for Trust and Charities Independent Reviewer Appointment (EXEMPT)

10 BACKGROUND PAPERS

- 10.1 There are no Background Papers.