

Agenda item:

Full Council		On 20 July 2009
Report Title. Alexandra Park and Palace Trust Historic Debt		
Report of Chief Financial Officer		
Signed :		
Contact Officer : Graham Oliver, Head of Finance – Accounting, Control and Income		
Wards(s) affected: All	Report for: Key Decision	
<p>1. Purpose of the report</p> <p>1.1. To consider the request from the Alexandra Park and Palace board to fully discharge the historic debt due to the Council.</p>		
<p>2. Introduction by Cabinet Member for Resources (Cllr B. Harris)</p> <p>2.1. At this stage it is not prudent to agree to discharge this debt owed to the Council, I agree with the recommendation below.</p>		
<p>3. State link(s) with Council Plan Priorities and actions and /or other Strategies:</p> <p>3.1 The proposal is aligned to the Council Plan in terms of delivering cost effective services and value for money.</p>		
<p>4. Recommendations</p> <p>4.1. That the Council does not discharge the historic debt owed to it by the Alexandra Park and Palace charitable trust.</p>		

5. Reason for recommendation(s)

- 5.1. The accounts of the Alexandra Palace and Park Trust are required to show the full liability due to the Council. It is considered that given the legal relationship the Council has with the Trust in terms of continued operational deficits that this does not affect the ability of the Trust to attract partners or to demonstrate that it, and the trading company are a going concern.
- 5.2. The Council is, by statute, required to fund deficits that the Trust incurs each year, and is aware that the Trust does not have the current means to pay this debt and therefore will not take action to collect this debt.
- 5.3. It is considered prudent for the Council to maintain the right to collect this debt, should circumstances change and the opportunity arise for the Council to reclaim these monies paid out from any future assets that may come to the charitable trust.

6. Background

- 6.1. At its meeting of 19th March 2009 the Alexandra Park and Palace board resolved to request that the Council discharge the historic debt that is due from the AP&P charitable trust to the Council in its capacity as Local Authority. This is for the period 1988/89 to 2007/08 and amounts to £37.364m. The current outstanding debt including the draft accounts for 2008/09 is £39.118 million. This debt is added to each year by the value of any deficit that the Trust has for the year.
- 6.2. Following correspondence between the Council and the Attorney General in the mid 1990's it was agreed that the Council as local authority should be fully indemnified by the Trust in respect of the deficit accumulated since 1991 including all current and future operating deficits.
- 6.3. After a period of having the Council's accounts qualified each year because of the inability to write off this debt in full in one year, the opportunity arose with a change in the accounting regulations to write it off and capitalise the payments over a period and remove this ongoing qualification. In 2005/06 the Council wrote-out of its accounts the total debt of the Trust outstanding at that point following the granting of a capitalisation direction from the Secretary of State.
- 6.4. Although the debt was written out of the Council's accounts, at no point has the Council discharged the debt and therefore the Trust continues to be required to show the debt in their accounts.
- 6.5. Should the Council grant the Trust its request to discharge the debt, the Trust would be able to clear this debt from its accounts.
- 6.6. When the original indemnification for the historic debt was sought from the Attorney General it was on the basis that a future development partner for the

Trust may be found which could release funds to enable to repayment of past years deficit funds. At present that condition has not changed and therefore it would be imprudent for the Council to discharge the debt and therefore remove any possibility of the future recovery of any or all of the outstanding debt.

6.7. As a result of the Alexandra Park and Palace Acts & Order 1900-1985 the Council has an obligation to fund any deficits that the Trust incurs and therefore the Trust is not at risk of no longer being a going concern, even with such a large debt showing on its balance sheet.

6.8. It is not known what future the Trust will have and indeed what public sector or local authority structures or changes may be that may facilitate the Council receiving some recompense. This together with other potential private sector development opportunities in the future may mean that there is still some chance of a future recovery of funds and therefore the recommendation not to discharge the debt is proposed.

7. Head of Legal Services Comments

7.1. The background legal issues relevant to the debt owed by the AP&P Trust to the Council as Local Authority are explained in the body of the report. The full Council is under no obligation to agree the request for discharge of the debt from the Alexandra Park & Palace Board. Members are reminded that they have a fiduciary duty to exercise care with respect to Local Authority funds. Although there is no immediate prospect of recovering the debt, economic circumstances and the financial position of the Trust may change in future. Members are further advised that the release of a debt of this very large size should only be agreed after convincing professional advice that the debt has become truly irrecoverable.

8. Equalities & Community Cohesion Comments

8.1. There are no equality implications to comment on for this report.

9. Financial Implications

9.1. There are no financial implications arising from the proposed recommendation in this report.

10. Local Government (Access to Information) Act 1985

10.1. AP&P Board report 19th March 2009 – Charity Indemnification of London Borough of Haringey

10.2. Correspondence between LB Haringey and the Attorney General/ Treasury Solicitor in 1996