

Wigan Leisure and Culture Trust
A public benefit assessment report by the Charity Commission



The Charity Commission

The Charity Commission is the independent regulator of charities in England and Wales. Its aim is to provide the best possible regulation of charities in England and Wales in order to increase charities' effectiveness and public confidence and trust. Most charities must register with the Commission, although some special types of charity do not have to register. There are some 180,000 registered charities in England and Wales. In Scotland the framework is different, and the Commission does not regulate Scottish charities.

The Commission provides a wide range of advice and guidance to charities and their trustees, and can often help with problems. Registered charities with an annual income over £10,000 must provide annual information to the Commission. The Commission has wide powers to intervene in the affairs of a charity where things have gone wrong.

More information about the Commission together with a range of guidance for charities can be found on our website **www.charitycommission.gov.uk**.

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The Charity Commission is the independent regulator of charities in England and Wales. In July 2010 we started a public benefit assessment in relation to Wigan Leisure and Culture Trust. This is a report of our findings.

Section A: The purpose of this report

This report sets out the Charity Commission's findings from its public benefit assessment for Wigan Leisure and Culture Trust ('the charity'), registered charity number 1105278. You can find further information about what public benefit assessments are, how we carry them out, a glossary of terms used and other details on the public benefit pages of our website.

Section B: Key details about the charity

Charity registration details

Wigan Leisure and Culture Trust incorporated as a company on 23 December 2002 and registered as a charity on 3 August 2004.

Location and operation

The charity's registered office is based in Wigan.

The charity has contracts with a number of organisations to deliver services. They include contracts:

- with Wigan Council to deliver recreational and sporting, library, parks and open spaces, community development, crematoria and cemetery, heritage, arts, tourism, sports development and play services
- with Selby Council to deliver recreational and sporting and sports development services
- with the Ashton, Leigh and Wigan Primary Care Trust to deliver weight management and other ill-health prevention services.

The charity is structured around the following core services:

- Sport and Healthy Living
- Environment and Sustainability
- Libraries, Heritage and Arts
- Business and Service Development
- Corporate Support Services
- Financial Services

The charity operates the majority of its services, but it has two wholly-owned trading subsidiaries, Wigan Leisure and Culture Enterprises Limited and Proco Enterprises. The principal areas of commercial operation in these companies are grounds maintenance and the operation of conferencing and catering facilities. The primary object is income generation and programmes are determined on the basis of profitability and commercial viability.

The charity derives its income from contract funding (86.5%) and income generation from the trading subsidiaries and investment income (13.5%). The charity advised that their terms of contract represent full cost recovery.

The charity has an annual turnover in excess of £35million and has a workforce of over 800 employees.

Fees

At the time of our assessment the charity provided the following examples of the charges made:

- access to the charity's sports centres for use of the gyms and for activities at sports halls and outdoor facilities such as tennis courts and running tracks. The annual fee for gym membership is £300 (or £25 per month on a direct debit payment regime); 'pay-as-you-go' single tickets are available at a cost of £5.20 per visit
- burials and crematoria, for which charges are levied to cover the cost of the service. The costs of adult burial rights range from £147 - £700
- arts events, such as the Jazz Festival. Charges are made to substantially cover the costs of the performances. Full ticket prices range from £10 to £22.50. Concessionary rates are available.
- Summer Holiday Club, which costs £60 per week
- art clubs and supervised painting classes - £1.25 per session
- adult dance clubs – prices range from £1 - £3 per session

Opportunities to benefit for those unable to afford the fees

At the time of our assessment the charity offered the following facilities free of charge:

- all casual swimming for children, adults and elderly people
- access to all the parks and gardens
- access to the basic library service
- access to art galleries
- art festivals
- musical theatre
- dance classes for adults and children
- art workshops for adults and children
- family nature walks
- children's sport sessions (golf, basketball and netball)
- reading groups
- adult computing courses
- access to weight management and other health related services

(From 1 January 2011 the Trust advised that they will no longer receive funding for or provide free swimming for adults).

Financial position: year ending 31 March 2010

Total income (group)	£35,225,780
Expenditure (group)	£34,949,862
Net incoming resources	£275,918
Net assets (excluding pension liability)	£1,750,109

Wigan Leisure and Cultural Enterprises Ltd generated a surplus and £47,349 was gift-aided to the charity. Proco Enterprises Ltd generated a surplus and £44,598 was gift-aided to the charity.

Section C: Does the charity have an aim which is capable of being charitable?

In this section, we report on the charity's aim and whether it fits within the list of descriptions of purposes within section 2 (2) of the Charities Act 2006 that are capable of being charitable purposes.

The charity's objects* are as follows:

"The charity has been established for the public benefit for the following purposes:

- (1) the advancement and support of education, culture, arts, heritage and history including the provision of libraries, museums, galleries, learning and information centres, archives and other related services; and or
- (2) the provision or assistance in the provision of facilities for recreation or other leisure time occupation in the interest of social welfare such facilities being provided to the public at large save that special facilities may be provided to persons who by reason of their youth, age, infirmity or disability, poverty or social or economic circumstances may have need of special facilities and services; and/or
- (3) the promotion and preservation of good health through community participation in healthy recreation; and/or
- (4) the provision or assistance in the provision of public cemeteries and/or crematoria and the maintenance of the same for the public benefit; and/or
- (5) such other charitable purposes beneficial to the public consistent with the objects above as the trustees in their absolute discretion determine."

The Charities Act 2006 includes, at section 2(2), a list of descriptions of purposes which are capable of being charitable if carried out for the public benefit. The 'advancement of education' is included in that list, at s2(2)(b).

The 'advancement of art' is included in the list of descriptions of purposes at s2(2)(f). It covers a wide range of charitable activity including promoting various forms of art at a national/professional and local/amateur level, the provision of arts facilities and encouraging high standards of art. 'Art' includes abstract, conceptual and performance art and representational and figurative art. It also includes advancing education in the arts by developing public appreciation of the arts and improving public

access to art. Charities concerned with the advancement of art need to satisfy a criterion of educational or artistic merit. We take a broad and inclusive view of the meaning of art in considering whether the criterion of merit is met.

The establishment and maintenance of a museum and/or art gallery for the public benefit is a charitable aim which falls within both section 2(2)(b), 'the advancement of education', and section 2(2)(f), 'the advancement of art, culture, heritage or science'.

Facilities for recreation and other leisure-time occupation that are provided in the interests of social welfare with the object of improving the conditions of life for the persons for whom they are intended are recognised as charitable by section 1 of the Recreational Charities Act 1958, subject to the proviso that the facilities are provided for the public benefit, and fall within section 2(2)(m) (other purposes recognised as charitable).

Public works and services and the provision of public amenities for the public benefit, such as a crematorium, also fall within section 2(2)(m).

We recognise 'the advancement of community participation in healthy recreation by providing facilities for playing particular sports' as a charitable aim that falls within section 2(2)(m) 'other purposes recognised as charitable'. 'Community participation' relates to the community in the widest sense; it entails that the facilities should be genuinely available to the public at large, subject to reasonable restrictions on who can have the opportunity to benefit from them (such as where limitations on membership numbers are needed for health and safety reasons). One of the charity's stated key goals is to 'Get Wigan active and improve people's lives'. We have taken the view that the charity's main objective in this is to advance health. However, certain activities under this objective could also be viewed as 'the advancement of amateur sport' (section 2(2)(g) of the Act).

The charity advances its aims by carrying out a range of cultural and leisure services under contract, including:

- enabling access and opportunity to participate in, and experience, a variety of events, exhibitions, festivals and other arts-based activities and learning opportunities. Examples include arts festivals, music and choral societies, craft, dance and drama groups and a Shakespeare Reading Group;
- providing a targeted programme to support people in becoming more physically active to improve their health and quality of life; and
- providing public cemeteries and crematoria.

The charity also operates a tourism service. The promotion of tourism, as such, is not a recognised charitable purpose. In this case the tourism service relates to the charitable objects, in that it promotes facilities for art and recreation in Wigan and beyond, through facilitating access to events and marketing the charity's services.

Taking the operation of the tourism service as a whole, the expenditure (as a percentage of the charity's overall expenditure) is minimal. Out of a total expenditure of £35.9million the budget for the tourism service is £125,000 (<1%). The majority of the expenditure provides information to the public about the charity's arts, heritage, historic, educational, cultural, sports and leisure facilities.

We concluded that the tourism service is incidental and ancillary to those activities undertaken to promote the charity's aims, such as the provision of facilities for art and recreation.

It is clear that the aims of the charity are as stated in its objects and are capable of being administered for the public benefit.

We concluded that the charity's aims fall within various descriptions of purposes in the Charities Act 2006 - sections 2(2)(b) the advancement of education; 2(2)(f) the advancement of the arts, culture, heritage or science; 2(2)(d) the advancement of health or the saving of lives; 2(2)(m) other purposes currently recognised as charitable and section 2(4) (purposes recognised as charitable by section 1 of the Recreational Charities Act 1958) - and are capable of being charitable.

* set out in its memorandum and articles of association incorporated 23 December 2002 as amended 23 July 2010

Section D: Is the charity's aim for the public benefit?

Having established in section C that the aim falls within the descriptions of purposes at section 2(2) of the Charities Act 2006, we consider here whether that aim is for the public benefit and, consequently, whether Wigan Leisure and Culture Trust is a charity. We also consider whether the trustees are complying with their duty to administer Wigan Leisure and Culture Trust for the public benefit.

We considered these issues against two public benefit principles. These are:

Principle 1: There must be an identifiable benefit or benefits

Principle 2: Benefit must be to the public, or section of the public

We looked at the sub-principles within each of these.

- sections D1 and D2 set out our findings for those relating to principle 1
- sections D3 – D6 set out our findings for those relating to principle 2

We set out at section D7 our conclusions on whether the aim of Wigan Leisure and Culture Trust is for the public benefit and whether the trustees are administering it for the public benefit.

Section D1

We looked at the first two sub-principles together:

- **sub-principle 1a - it must be clear what the benefits are**
- **sub-principle 1b - the benefits must be related to the aims**

Relevant benefits

The charity's identifiable benefits fall into the following categories:

The advancement and support of education, culture, arts, heritage and history including the provision of libraries, museums, galleries, learning and information centres, archives and other related services

The benefits provided are the presentation of high quality art, the opportunity for members of the public to be educated in (artistic) cultural activities, and promoting the public's artistic and literary appreciation.

The charity also provides public access to the historic buildings that house collections which themselves are protected and promoted by the charity. Examples include the Turnpike Gallery which exhibits art by local, regional, national and international artists. The gallery provides regular workshops, events and activities for children and adults.

A number of activities are provided for children and adults. These include art groups, led by professional artists and youth theatre groups with professional theatre workers. They also include street dance for adults, simple ballroom, latin and salsa, rag rug taster sessions and Scottish country dancing (juniors). Although not every activity listed is capable of promoting the arts, those that do not appear to promote the arts only form a minor part of the overall activities and, taken together, can be regarded as a range of activities, the provision of which may be charitable under the Recreational Charities Act 1958 as being capable of improving the conditions of life of people in Wigan.

The charity aims to engage people in their own, and Wigan's, heritage through creative management and use of its archives, collections and heritage resources. The hub venue for this service is the Museum of Wigan Life, which combines a museum, an art gallery, a local and family history research centre, a shop and a meeting room. The service delivers an active learning programme including curriculum and community outreach events and activities. The educational or artistic quality of works and the degree of public access are sufficient.

The library service provides items for loan in a variety of media, for people of all ages, using 16 fixed libraries, three mobile libraries and via a van delivery service for house-bound clients.

The benefits arising from the delivery of these services are clear, identifiable and are related to the aim.

The provision, or assistance in the provision, of facilities for recreation or other leisure-time occupation in the interests of social welfare, such facilities being provided to the public at large save that special facilities may be provided to persons who by reason of their youth, age, infirmity or disability, poverty or social or economic circumstances may have need of special facilities and services; and/or the promotion and preservation of good health through community participation in healthy recreation.

The charity provides a parks service which aims to enhance quality of life by providing sustainable, safe and well-managed parks, together with a range of outdoor activities that encourage participation and enjoyment, health and learning outcomes for everyone for the community. Services include supporting and providing events and activities across the parks and green spaces with a particular focus on the theme of 'Getting Wigan Active'.

The charity is responsible for the management of Wigan Council's direct sport and leisure provision. There are four swimming pools within the six leisure centres in Wigan and in Selby there is one swimming pool and one dry site. The main focus is to increase participation in sport and physical activity to enrich lives, improve health, build stronger communities and enable people to reach their full potential.

The charity also provides targeted programmes to support people in becoming more physically active to improve their health and quality of life. These programmes include 'Steps to Health' exercise referral scheme, the 'Next Steps' community activity programme, 'Stepping Out' – activity programmes targeted at older adults, 'Sure Start' children's centre programmes, a range of health targeted activity programmes and 'Well at Work' – a national pilot with local workplaces.

The Sports Development programme delivers a wide variety of services to provide opportunities for young people to engage in life-long participation in sports and physical activity. An Active Coaching Team works in schools and communities to increase participation, raise the quality of sports and physical activity and use sport as a diversionary tool to reduce anti-social behaviour.

The benefits arising from the delivery of these services are clear, identifiable and are related to the aim.

The provision or assistance in the provision of public cemeteries and/or crematoria and the maintenance of the same for the public benefit

Wigan Council owns the land and the charity is responsible for the day to day management and administration of Wigan Borough's nine municipal cemeteries, Wigan Crematorium and the municipal funeral service. The management and administration of a burial ground and/or crematorium is a charitable activity. Although the provision of a funeral service does not fall directly within the stated aims, it is an associated service and is ancillary to the provision of a burial ground or crematorium.

In providing these services, the charity's objective is to offer a sympathetic, dignified and accessible burial and cremation service to the people of Wigan.

The benefit is clear, identifiable and related to the aim.

Such other charitable purposes beneficial to the public consistent with the objects above as the Trustees shall in their absolute discretion determine

The charity does not undertake activities that further other charitable purposes.

We concluded that there are clear, identifiable benefits that are related to the charity's aims. The benefits are sufficient to enable us to conclude that the charity does meet sub-principles 1a and 1b.

Section D2

Sub-principle 1c: Benefits must be balanced against any detriment or harm

We explain in *Charities and Public Benefit* our approach to assessing this sub-principle.

Based on this, we found no evidence or indication of detriment or harm in relation to this charity.

We concluded that there was nothing under sub-principle 1c that would affect the assessment of public benefit in this case.

Section D3

Sub-principle 2a: The beneficiaries must be appropriate to the aims

The charity's objects define its beneficiaries as the general public. The beneficiaries are therefore clearly appropriate to the aim.

We concluded that the beneficiaries are appropriate to the aim and that this sub-principle is met.

Section D4

Sub-principle 2b: Where benefit is to a section of the public, the opportunity to benefit must not be unreasonably restricted by geographical or other restrictions

In this section we consider geographical and other restrictions. In section D5 we consider restrictions arising as a result of the fees charged.

Geographical restrictions

There is no express geographical restriction in the stated objects applied to the opportunity to benefit. In practice the charity operates in Wigan and Selby and the surrounding areas which is where the charity's facilities are situated.

Other restrictions

There are no other restrictions on who can benefit; the charity's facilities and services are open to all.

We concluded that the opportunity to benefit is not unreasonably restricted by geographical or other restrictions outlined above and that the charity does meet sub-principle 2b in relation to restrictions other than fees.

Section D5

We considered the remaining element of sub-principle 2b together with sub-principle 2c:

- **sub-principle 2b (the opportunity to benefit must not be unreasonably restricted by ability to pay any fees charged)**
- **sub-principle 2c (people in poverty must not be excluded from the opportunity to benefit)**

Taken together, these sub-principles mean that the charity must be able to show that there is sufficient opportunity to benefit in a material way that is related to the charity's aim for those who cannot afford the fees, including those in poverty.

We describe in section C of *Public Benefit and Fee-charging* the principal factors derived from case law which we use to assess this.

Our assessment of these sub-principles looked at whether the level at which fees are set has the effect of restricting access to people who are unable to pay the fees from benefiting from the services or facilities. We took into account the nature of the benefit, including whether it was a one-off service or facility, or one that people would want to use regularly or that is usually provided on a longer-term basis.

Some of the benefits provided by the charity are free of charge; for others there is a financial cost. Benefits for which there is a charge include:

- access to the charity's sports centres for use of the gyms and for activities at sports halls and outdoor facilities such as tennis courts and running tracks. The annual fee for gym membership is £300 (or £25 per month on a direct debit payment regime); 'Pay-as-you-go' single tickets are available at a cost of £5.20 per visit.
- burials and crematoria, for which charges are levied to cover the cost of the service. The costs of adult burial rights range from £147 - £700
- arts events, such as the Jazz Festival. Charges are made to substantially cover the costs of the performances. Full ticket prices range from £10 to £22.50. Concessionary rates are available.

- Summer Holiday Club, which costs £60 per week
- art clubs and supervised painting classes - £1.25 per session
- adult dance clubs – prices range from £1 - £3 per session

Benefits which are accessed free of charge include:

- (at the time of the assessment) all casual swimming for children, adults and elderly people
- access to all the parks and gardens
- access to the basic library service
- access to art galleries
- art festivals
- musical theatre
- dance classes for adults and children
- art workshops for adults and children
- family nature walks
- children's sport sessions (golf, basketball and netball)
- reading groups
- adult computing courses.

There are a range of means-tested discounts that are available through the Active Life lifestyle promotion. For a £1.50 admin fee (to cover the cost of the data collection entry card) local people can join the health and fitness club operated by the charity and all members are entitled to discounts on a range of activities. Racquet sports (up to 50% discount); Profiles gym membership (up to 40% discount); sporting activities (up to 40% discount) and golf (up to 30% discount). People qualify for additional discounts if they are on a low income/income support, disabled, a carer or a GP referral. Examples of additional discounts include Profiles training (40%), aerobics (30%), weekend squash (50%) and golf (30% off midweek and 10% at weekends).

Although access to some services (gym membership, burial services) might be regarded as restricted by ability to pay the relatively higher fees charged these services represent a small proportion of the overall range of services and facilities (and therefore opportunities to benefit) provided by the charity. To mitigate some of the higher fees charged the charity provides an opportunity to benefit by spreading the cost of membership, a 'pay-as-you-go' facility is offered and concessions in some cases are granted (Active Life lifestyle campaign).

Government funding is also available to those people who are eligible for state benefits and tax credits, who require assistance in meeting funeral costs.

Many of the charity's services are provided free of charge, and others for low fees which most people could afford. Overall, the totality of opportunities to benefit for people who cannot afford the fees is sufficient to conclude that benefit is not unreasonably restricted by ability to pay any fees charged and that people in poverty are not excluded from the opportunity to benefit.

We concluded that, taking into account what is reasonable and appropriate in the circumstances of this charity, the opportunity to benefit is not unreasonably restricted by the ability to pay any fees charged and people in poverty are not excluded from the opportunity to benefit and so the charity meets sub-principles 2b (in relation to fees) and 2c.

Section D6

Principle 2d: Any private benefits must be incidental

The charity advised that all terms of contract with Wigan Council do represent full cost recovery and there is no private benefit to the Council. The cemeteries service had operated at a loss. This position has now been rectified through a policy of deficit reduction from Wigan Council.

The charity's governing document is such that Wigan Council can nominate two trustees. A further nine trustees are independent of Wigan Council and are appointed either as having specialist experience and knowledge or as being representative of the community. Any conflicts of interests are managed through a process that includes a standing item on the agendas of Board meetings and all its committees; this includes asking for conflict of interest declarations in respect of agenda items and that there is a strict adherence to the rule of the exclusion of any conflicted parties during relevant Board discussions.

The charity identifies ways of delivering and improving services so as to achieve the agreed contract outputs. It implements the services at its own discretion and has developed an Impact Framework to ensure that it is delivering those services that its customers want and which are beneficial to them. All business plans and policies are independently drawn up by the charity.

The charity is administered in a way that is independent of its funders and the trustees only act in the interests of the charity and its beneficiaries, and the decisions made are in line with the trustees' general duty of care and duty to act prudently. There is no private benefit to the contracting bodies.

We concluded that private benefits are incidental and that this sub-principle is met.

Section D7

Conclusion: Is the charity's aim for the public benefit?

We concluded that all of the sub-principles are fulfilled, that Wigan Leisure and Culture Trust's aims are for the public benefit and that the trustees are administering the aims for the public benefit.

Section E: Overall conclusions and required or recommended actions

We concluded that Wigan Leisure and Culture Trust is a charity and that the trustees are administering it for the public benefit.

We have not identified any additional required or recommended actions.

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