



INDIVIDUAL CABINET MEMBER AND OFFICER DELEGATED DECISIONS

WEDNESDAY, 4 MAY 2011

Please find enclosed Decision Notices in connection with the following:

1. **Application For Relief On The Grounds Of Hardship** (Pages 1 - 5)
2. **Applications for Discretionary Rate Relief** (Pages 6 - 15)

Please note that these are subject to call-in.

Queries regarding these documents

Please contact David Watson - Democratic Services - telephone 01524 582096, or e-mail dwatson@lancaster.gov.uk.

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Town Hall,
Dalton Square,
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Published on Wednesday, 4 May 2011

EXECUTIVE DECISIONS TAKEN BY CABINET PORTFOLIO HOLDER OR DELEGATED OFFICER NOTICE OF DECISION

THIS SECTION TO BE COMPLETED BY THE PORTFOLIO HOLDER AND CONTACT OFFICER

TITLE OF DECISION:			
AWARD OF RATE RELIEF ON THE GROUNDS OF HARDSHIP			
NAME OF DECISION TAKER:	COUNCILLOR STUART LANGHORN		
POSITION AND RESPONSIBILITY HELD:	CABINET PORTFOLIO HOLDER FOR REVENUE SERVICES		
CONTACT OFFICER:	JULIE SMETHURST		
TELEPHONE:	01524 582203		
E-MAIL:	jsmethurst@lancaster.gov.uk		
Details of Decision:			
<p>(1) That having considered this individual case on merit :</p> <p>The application be refused hardship relief for the period 1 April 2011 to 31 March 2012 as the member is not satisfied that, on the evidence provided, hardship has been proven.</p>			
<p>Reasons for the decision (continue on separate sheet or append relevant papers as necessary):</p> <p>Having considered the relevant facts of this case, it is not considered there are any exceptional circumstances which would warrant hardship relief being granted. There are many other locally based businesses also faced with hefty empty rate charges, which are currently suffering a downturn in productivity and sales due to the economic climate and consequently not making a profit or seeing profits reduced. In this particular case a conscious decision has been made not to sell the site until the market value increases, and the charge is not significant enough to have any impact on the operating profits of this business. It is therefore concluded that the test of Hardship has not been met and therefore it would not be of benefit to the Council Tax payers of Lancaster to single out this particular company for special treatment.</p>			
<p>Is the decision URGENT Yes/NO Please delete as appropriate and give reasons for urgency below:</p> <p><u>No</u></p>			
<p>I CONFIRM THAT I HAVE BEEN CONSULTED ON THE ABOVE DECISION AND THAT IT IS URGENT AND REASONABLE IN ALL THE CIRCUMSTANCES. (IN ACCORDANCE WITH SECTION 17 OF THE OVERVIEW & SCRUTINY PROCEDURE RULES)</p> <p>SIGNATURE OF OVERVIEW & SCRUTINY N/A</p> <p>CHAIR:</p>			
<p>I confirm that I have taken account of the options proposed by officers, the various implications set out in the report and the comments of the Monitoring and Section 151 Officers and am authorising the decision as set out above.</p>			
SIGNATURE OF DECISION TAKER:	Councillor Stuart Langhorn		
DATE:	4 May 2011		
THIS SECTION TO BE COMPLETED BY DEMOCRATIC SERVICES			REF NO.
			2011/ic31
DATE DECISION TAKEN:	4 May 2011	DATE RECEIVED BY DEMOCRATIC SERVICES:	4 May 2011
DATE DECISION PUBLISHED:	4 May 2011	IMPLEMENTATION DATE (publication day + 5 working days):	12 May 2011

A copy of the report considered by the decision taker should be appended to this form and forwarded immediately to Democratic Services on completion.

By virtue of paragraph(s) 1, 3 of Part 1 of Schedule 12A
of the Local Government Act 1972.

Document is Restricted

LANCASTER CITY COUNCIL

Promoting City, Coast & Countryside

EXECUTIVE DECISIONS TAKEN BY CABINET PORTFOLIO HOLDER OR DELEGATED OFFICER NOTICE OF DECISION

THIS SECTION TO BE COMPLETED BY THE PORTFOLIO HOLDER AND CONTACT OFFICER

TITLE OF DECISION:			
AWARDS OF DISCRETIONARY RATE RELIEF			
NAME OF DECISION TAKER:	COUNCILLOR STUART LANGHORN		
POSITION AND RESPONSIBILITY HELD:	CABINET PORTFOLIO HOLDER FOR REVENUE SERVICES		
CONTACT OFFICER:	JULIE SMETHURST		
TELEPHONE:	01524 582203		
E-MAIL:	jsmethurst@lancaster.gov.uk		
Details of Decision: That having considered each of the cases on merit: 1. Application A be granted top-up discretionary relief for 2010/11 and 2011/12 and application B be granted top-up discretionary relief for 2010/11 and part of 2011/12 only.			
Reasons for the decision (continue on separate sheet or append relevant papers as necessary): Having considered each case on its merits, the decisions are in line with previous decisions made in respect of similar applications.			
Is the decision URGENT Yes/NO Please delete as appropriate and give reasons for urgency below: <u>No</u>			
I CONFIRM THAT I HAVE BEEN CONSULTED ON THE ABOVE DECISION AND THAT IT IS URGENT AND REASONABLE IN ALL THE CIRCUMSTANCES. (IN ACCORDANCE WITH SECTION 17 OF THE OVERVIEW & SCRUTINY PROCEDURE RULES) SIGNATURE OF THE OVERVIEW & SCRUTINY CHAIRMAN: N/A			
I confirm that I have taken account of the options proposed by officers, the various implications set out in the report and the comments of the Monitoring and Section 151 Officers and am authorising the decision as set out above.			
SIGNATURE OF DECISION TAKER:	Councillor Stuart Langhorn		
DATE:	4 May 2011		
THIS SECTION TO BE COMPLETED BY DEMOCRATIC SERVICES			REF NO.
			2011/IC32
DATE DECISION TAKEN:	4 May 2011	DATE RECEIVED BY DEMOCRATIC SERVICES:	4 May 2011
DATE DECISION PUBLISHED:	4 May 2011	IMPLEMENTATION DATE (publication day + 5 working days):	12 May 2011

A copy of the report considered by the decision taker should be appended to this form and forwarded immediately to Democratic Services on completion.



Applications for Discretionary Rate Relief

Individual Cabinet Member Decision (Councillor Stuart Langhorn) Report of Head of Financial services

PURPOSE OF REPORT

The Council has a discretionary power to award rate relief to Business ratepayers in specified circumstances.

This report requests the Cabinet Member to consider :

2 new applications for 20% top-up discretionary rate relief (**Applications A & B**)

Key Decision

Non-Key Decision

X

Referral from Cabinet
Member

Date Included in Forward Plan

Not Applicable

This report is public

RECOMMENDATIONS:

It is recommended that after taking into account the merits of each case and previous decisions to ensure consistency of treatment:

1. **Application A** be granted top-up discretionary rate relief for 2010/11 and 2011/12 and **Application B** be granted top-up discretionary relief for a temporary period in 2010/11 and 2011/12 only.

1. Introduction

- 1.1 Under Section 43 of the Local Government Finance Act 1988, where a property is occupied by a registered charity or trustees for a charity, liability to Non-Domestic Rate is reduced by 80%.

Under Section 47 of the Act, the Council has discretion to 'top-up' to 100%, the relief given to any organisation receiving mandatory relief.

In addition, further discretion is available to grant up to 100% rate relief to other non-profit making organisations.

Because of the legal requirements for the length of notice to be given to an organisation when varying or cancelling relief, it is the Council's policy to grant discretionary relief for one year

only rendering each case subject to an annual review. If it is determined that relief should be granted, it will be awarded to 31st March 2012.

Attached as **Appendix 1** is a guidance note, which may be used to aid the decision making process.

Shown below is a summary of the current general basis adopted by the Council when considering claims for discretionary rate relief under each particular category.

1. **Scouts, Guides, etc.**
80% mandatory relief and 20% discretionary relief normally given.
2. **Sports Organisations**
100% discretionary relief or 80% mandatory and 20% 'top-up' where there is no bar.
50% discretionary relief where there is a bar.
3. **Recreational Organisations**
80% mandatory relief and 20% discretionary relief or 100% discretionary relief, if no mandatory relief.
4. **Village Halls/Community Centre**
80% mandatory relief and 20% discretionary relief, or 100% discretionary relief if no mandatory relief.
5. **Educational Organisations**
80% mandatory relief but no additional discretionary relief.
6. **Charity Shops**
80% mandatory relief but no additional discretionary relief unless the charity solely or mainly benefits local residents.
7. **Welfare Groups**
80% mandatory relief but no additional discretionary relief unless the organisation solely or mainly benefits local residents.
8. **Miscellaneous Organisations**
Playgroups have been given 80% mandatory relief and 20% discretionary relief, or 100% discretionary relief where appropriate. Other organisations falling within this category have been treated according to the merits of their case.

2.0 Proposal Details

- 2.1 It is proposed that case A below be granted relief for 2010/11 and 2011/12 and case B be granted relief for the temporary period in 2010/11, in light of the information provided.

New Applications

Case A

<i>Name</i>	One Voice Disability Services
<i>Situation</i>	213 Marine Road Central, Morecambe
<i>Description</i>	Shop & Premises – Category 8
<i>Rateable Value</i>	£3600

Rate Charge after Mandatory Relief		Cost to General Fund if granted	
2010/11 •	115.40		86.55

2011/12	311.76		233.82
Total	427.16		320.37

- from 1 November 2010

This organisation is already in receipt of top-up relief at B22 & B30 St Leonards House, Lancaster, where it works to improve public awareness of the needs and views of people with physical disabilities and/or sensory impairments and campaigns to improve the services available. They provide information and advice on issues ranging from accessible holidays to help with benefit forms to disabled people, their families and carers. Due to the success of the Lancaster project they have extended their work into Morecambe enabling their services to be more accessible to people in the local area. The shop is used as a drop-in centre for information and advice, and prescriptions for equipment. They also operate a new shop mobility scooter & wheelchair hire service from the shop to take the strain out of shopping.

Case B

<i>Name</i>	Cancercare
<i>Situation</i>	3 Rendsburg Way, Lancaster
<i>Description</i>	Shop & Premises – Category 8
<i>Rateable Value</i>	£25000

Rate Charge after Mandatory Relief		Cost to General Fund if granted	
2010/11 •	191.87		143.90
Total	191.87		143.90

- from 17 February 2011-28 March 2011

<i>Name</i>	Cancercare
<i>Situation</i>	16-18 Ashton Walk
<i>Description</i>	Shop & Premises – Category 8
<i>Rateable Value</i>	£63000

Rate Charge after Mandatory Relief		Cost to General Fund if granted	
2010/11 •	144.98		108.74
2011/12	443.03		332.27
Total	588.01		441.01

- from 20 March 2011- 30 April 2011

Both these were temporary rent-free lets to enable Cancercare to raise money through book fairs. The first of these were held on the 18th and 19th February and two more on 24th and 25th March. The premises are to be emptied by 30th April 2011. Cancercare is an organisation dedicated to the support of local people with cancer, their families and their carers, as well as those bereaved by cancer. The objectives are to relieve sickness, suffering and distress of persons facing cancer through therapies and support suitable to their individual needs.

3.0 Details of Consultation

- 3.1 No consultation has taken place.

4.0 Options and Options Analysis (including risk assessment)

4.1 There are two options available for consideration in respect of all applications.

4.2 Option 1 –

To grant discretionary relief in respect of the new applications, each individually on their merits, based on the guidelines provided in this report and with reference to previous decisions made in respect of similar organisations.

4.3 Option 2 -

To refuse discretionary rate relief in individual cases, based on the facts of each one and providing the reasons for refusal.

5.0 Officer Preferred Option (and comments)

5.1 In respect of **Application A and Application B** it is recommended that Option 1 be applied and discretionary rate relief be granted on these cases.

6.0 Conclusion

6.1 Decision should be made in accordance with recommendations.

RELATIONSHIP TO POLICY FRAMEWORK

The proposals within this report link to the strategy within our existing Corporate Plan whereby we aim to provide and improve upon Lancaster City Council services in the most effective and efficient way.

In addition, the report displays our commitment to joint working with voluntary organisations and recognises the positive contribution that voluntary and community groups play in the provision and prioritisation of service delivery.

CONCLUSION OF IMPACT ASSESSMENT

(including Diversity, Human Rights, Community Safety, Sustainability and Rural Proofing)

This report raises no implications

FINANCIAL IMPLICATIONS

Appendix 2 sets out the details of the financial implications of granting relief

The Council has discretion to ‘top-up’ to 100%, the relief given to an organisation receiving mandatory relief. In addition, further discretion is available to grant up to 100% rate relief for other non-profit making organisations.

The council currently works on the basis that the budget will be driven by the policy for granting mandatory/discretionary relief, rather than the budget (and therefore the granting of relief) being cash limited. Therefore, by granting relief to the organisations in this report, the total additional annual cost to the General Fund account is as follows:-

Year	Amount
2010/11	£339.19
2011/12	£566.09
2012/13	£233.82
2013/14	£233.82

SECTION 151 OFFICER COMMENTS

The Section 151 Officer has been consulted and has no further comments.

LEGAL IMPLICATIONS

Legal Services have been consulted and have no observations to make.

MONITORING OFFICER'S COMMENTS

The Monitoring Officer has been consulted and has no further comments.

BACKGROUND PAPERS

Exempt under Paragraph 3 of Schedule 12a
Local Government Act 1972

Contact Officer: Melanie Cragg
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E-mail: mcragg@lancaster.gov.uk
Ref:

DISCRETIONARY RATE RELIEF

Under Section 47, Local Government Finance Act 1988 a charging authority may grant relief from all or part of the amount payable by way of National Non-Domestic Rate in respect of hereditaments occupied by a charity for charitable purposes, by certain voluntary bodies of a philanthropic nature, for recreation or by clubs and societies not established or conducted for profit.

Considerations

The notes shown below have been prepared to provide the Cabinet Member with guidance when considering applications for discretionary rate relief.

Due to the wide range of bodies eligible for discretionary rate relief, not all of the criteria shown below will be applicable in each case, therefore each case should be considered on its own merits, taking into account the contribution the organisation makes to the amenities of the area. Guidance is also provided for certain organisations where the Cabinet Member has previously considered applications and in an attempt to provide a consistent approach, the decision of the Cabinet Member has been provided.

When considering an application, the following points should be considered.

i. Access

- A Is membership open to all sections of the community?

There may be legitimate restrictions placed on membership which relate for example to ability in a sport or to the achievement of a standard in the field covered by the organisation or where the capacity of the facility is limited. Clubs or organisations should not be considered if they have membership rates set at such a high level as to exclude the general community.

- B Does the organisation actively encourage membership from particular groups in the community, e.g. young people, women, older age groups, persons with a disability, etc?

An organisation, which encourages such membership, might expect more sympathetic consideration than one, which makes no effort to attract members from groups, which the authority considered to be particularly deserving of support.

- C Are the facilities made available to people other than members, e.g. schools, casual public sessions, etc?

The wider use of facilities should be encouraged and rate relief might be one form of recognition that an organisation was promoting its facilities more widely.

ii. Provision of Facilities

- A Does the organisation provide training or education for its members?

Are there schemes for particular groups to develop their skills, e.g. young people, the disabled, retired people?

An organisation providing such facilities might deserve more support than one, which does not.

- B Have the facilities available been provided by self-help or grant aid?

The fact that a club uses or has used self-help for construction or maintenance or had facilities funded by grant aid might be an indicator that they were more deserving of relief.

- C Does the organisation run a bar?

The mere existence of a bar should not in itself be a reason for not granting relief. The Committee has, in all cases where the organisation operates a bar, limited the relief to a maximum of 50%.

The Authority should look at the main purpose of the organisation. In sports clubs, for example, the balance between playing and non-playing members might provide a useful guide as to whether the main purpose of the club is sporting or social activities. A social club whose main aim is to bring together people with similar interests should not be excluded from relief just because of the existence of a licensed bar.

- D Does the organisation provide facilities which indirectly relieve the authority of the need to do so, or enhance and supplement those which it does provide?

Authorities should not refuse relief on the grounds that an organisation is in competition with the Authority itself, but should look at the broader context of the needs of the community as a whole. Provision of facilities to meet a new need, not being provided by the Authority itself, but identified, as a priority for action, might be particularly deserving of support.

iii. **Other Considerations**

- A Is the organisation affiliated to local or national organisations, e.g. local sports or arts councils, national representative bodies?
- B Is membership drawn from people mainly resident in the billing authority's area?
- C Do the facilities provided benefit the Authority's area as a whole?

The Cabinet Member should be aware that for any application granted, 25% of the total granted will be borne by the taxpayers.

If the facilities provided do not benefit the area as a whole, the taxpayers may be financing a national organisation that is locally based.

The Cabinet Member has previously refused applications if the organisation does not benefit the area as a whole.

iv. **Charity Shops**

- A If the charity does not solely or mainly benefit local residents the Committee has previously *limited the total relief granted to the organisation to 80%* (this includes the 80% mandatory relief that is granted to registered charities).
- B Is the organisation used wholly or mainly for the sale of goods donated to a charity and are the proceeds of sale applied to the purposes of the charity?

Charity shops, which wholly or mainly sell goods bought under normal trading conditions, are not entitled to relief (this arose from the decision in Oxfam v Birmingham City Council (1975)).

Decisions and Determinations

For all applications for discretionary relief, the Authority must send written notification of the outcome of the application. The notification must state:

- i. Where relief is awarded –
 - (a) The first day to which the decision operates;
 - (b) If in respect of a particular period, the last day to which the decision operates;
and
 - (c) the amount chargeable.
- ii. Where relief is refused –
 - (a) The reasons for refusing the application.
- iii. Where relief is revoked or varied –
 - (a) The day on which the revocation or variation takes place;
 - (b) the amount chargeable;
and
 - (c) the reasons for the revocation/variation.

Summary

- i. **When considering an application for discretionary relief, the Cabinet Member should consider the points mentioned above.**
- ii. **The Cabinet Member should try to ensure that there is consistency in the level of relief granted to organisations of a similar nature.**
- iii. **25% of the total value of discretionary relief granted will be borne by the taxpayers. However, in cases where mandatory relief has been granted and the Cabinet Member grants the additional 20% 'top-up' relief, 75% of any additional relief granted will be borne by the taxpayers.**
- iv. **If an application for relief is refused, the Cabinet Member must give reasons for his decision.**

APPENDIX 2

PROPERTY ELIGIBLE FOR RATE RELIEF	TYPE OF RELIEF	AMOUNT OF RELIEF	FINANCIAL IMPLICATIONS			
			Proportion offset against payments into NDR Pool	Proportion borne locally by Council Taxpayers 2010/11 2011/12		
Property wholly or mainly used for charitable purposes which is occupied by a Registered, Excepted or Exempt Charity.	Mandatory	80%	100%	--	£ --	£ --
	Discretionary	Up to a further 20%	25%	75%	339.19	566.09
Property, all or part of which is occupied for the purposes of a non-profit making:					£	£
(a) institution or other organisation, whose main objects are philanthropic or religious or concerned with social welfare, science, literature or the fine arts, or;						
(b) club, society or other organisation and is used for the purposes of recreation or sport	Discretionary	Up to 100%	75%	25%	--	--
Property, all or part of which is occupied, other than as a trustee, by a charging or precepting authority.	None	None	--	--	--	--