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## MINUTES OF A CABINET MEETING Council Chamber - Town Hall Wednesday, 20 March 2013 (7.30 - 9.15 pm)

### **Present:**

Councillor Steven Kelly (Deputy Leader of the Council), Chairman

Councillor Robert Benham  
Councillor Andrew Curtin  
Councillor Roger Ramsey  
Councillor Paul Rochford  
Councillor Geoffrey Starns  
Councillor Barry Tebbutt

### **Cabinet Member responsibility:**

Community Empowerment  
Culture, Towns & Communities  
Value  
Children & Learning  
Community Safety  
Environment

Apologies were received for the absence of Councillors Michael White, Michael Armstrong and Lesley Kelly.

In the absence of the Chairman, the Vice-Chairman chaired the meeting.

Councillors Clarence Barrett, Wendy Brice-Thompson, Keith Darvill, David Durant, Linda Hawthorn and Jeffrey Tucker were present for the meeting.

1 member of the public and a representative of the Press was present for the duration of the meeting.

Through the Chairman, those present were advised of the evacuation procedures in the event of an emergency.

Unless otherwise indicated, all decisions were agreed unanimously with no member voting against.

## **52 DISCLOSURES OF PECUNIARY INTEREST**

Councillor Steven Kelly declared a non-pecuniary interest in the report concerning non-domestic rate relief (NNDR). Councillor Kelly advised that he was a Member of the Upminster Conservative Association, as were some other members of Cabinet, which received a national allowance in relation to NNDR for its premises. Councillor Kelly remained in the Chamber during the discussion and took part in the voting.

53 **MINUTES**

The minutes of the meeting of Cabinet held on 13 February 2013 were agreed as a correct record and signed by the Chairman.

54 **TRANSFER OF PUBLIC HEALTH TO THE COUNCIL**

*Councillor Steven Kelly, Cabinet Member for Individuals, introduced the report*

The report before Cabinet sought approval to enter into the Memorandum of Understanding (MOU) for the provision of public health advice to the Havering Clinical Commissioning Group (HCCG). It was reported that the MOU would come into force from 1 April 2013 and underpin the Council's responsibility to provide public health advice to NHS commissioners, which, in Havering, is the HCCG.

It was noted that the Council was also obliged to accept the transfer of relevant staff and public health assets from North East London and City cluster of Primary Care Trusts (PCTs), due to the statutory transfer of responsibilities under the Health and Social Care Act 2012.

Finally, the report provided a general update on the progress made to support the successful transfer of public health into the Council, as part of the changes introduced through the Health and Social Care Act 2012.

**Reasons for the decision:**

The provision of public health advice to health commissioners is a mandated service, so it must be provided and underpinned by an appropriate agreement.

**Other options considered:**

There is a statutory obligation to provide the service and the departmental guidance recommends a compact or Memorandum of Understanding with the CCG. This is consistent with the spirit of collaborative partnership working the Council is keen to further develop with HCCG.

Cabinet:

1. Agreed that a MOU (drafted on the basis of Department of Health guidance) be entered into by the Director of Public Health for the provision of public health advice to HCCG in accordance with the requirements of the Health and Social Care Act 2012, subject to annual review and, in the event of statutory changes, termination.
2. Noted the transfer of relevant staff and public health assets from North East London and City cluster of PCTs, as mandated by the Health and Social Care Act 2012.
3. Authorised the acting Assistant Chief Executive to accept the novation from the PCT of contracts relating to smoking cessation, the healthy child programme and sexual health services insofar as they relate to Havering.

4. Noted the Council's current position of readiness for the transfer of the public health function from 1 April 2013.

## 55 FIVE CULTURE SUB-STRATEGIES

*Councillor Andrew Curtin, Cabinet Member for Culture, Towns and Communities, introduced the report*

In May 2012, Cabinet approved an over-arching 3-year Culture Strategy for the borough, covering the period 2012-2014. The core ambition of the Culture Strategy is 'to transform lives through participation in, and enjoyment of, culture'. The strategy set out 3 objectives and 4 underpinning principles which outlined the Council's priorities for achieving this. Each of the Culture Sub-Strategies were based on these 3 objectives and shared these same principles.

The five Culture Sub-Strategies (Sport & Physical Activity; Arts; Libraries; Parks & Open Spaces, and Heritage & History) provided a strategic direction not only for the Council, but also for the wider development of culture in the borough through partnership with agencies in the public, private and voluntary sectors. It was noted that the strategies clearly demonstrate to external partners and funding agencies the key priorities for the Council and the community.

The sub-strategies included an analysis of the current service, identify emerging opportunities and areas for development, and set out an action plan for the next 3 years.

It was noted that the sub-strategies linked with wider policy agendas, including the Health & Wellbeing strategy, area regeneration plans, tourism, economic development, the environment, children's, young people's and older people's services, lifelong learning, community safety, community cohesion, and other important areas, which all worked together to improve the quality of life for residents of the borough.

The report sought cabinet approval of the five new Culture Sub-Strategies, covering the period 2013 – 2015.

### **Reasons for the decision:**

The approval and formal adoption of the Culture Sub-Strategies would provide a context and focus for the work of culture services in Havering over the next three years. The approval of the document would support the service and wider culture sector to i) access external funding, ii) influence other strategies and agendas, iii) communicate our priorities to the wider public, and iv) provide strategic direction for annual service planning.

### **Other options considered:**

No alternatives had been considered. Without these strategies the Council would be disadvantaged by not having a defined focus and strategy for improving the provision of culture in Havering.

Cabinet Agreed the 2013-15 Culture Sub-Strategies.

56 **NON-DOMESTIC RATE RELIEF - CHARITIES AND NON-PROFIT MAKING ORGANISATIONS**

*Councillor Roger Ramsey, Cabinet Member for Value, introduced the report.*

The Cabinet report set out the overall position in respect of discretionary rate relief against the Non Domestic Rate and explained the current budgetary position.

In light of the Council's savings strategy and future changes in the funding arrangements to authorities, the report made a number of recommendations to the current policy operative from 1 April 2013.

It was reported that the Localism Act had introduced a wider discretion to authorities that enables the rates payable to be reduced in accordance with rules determined by the Council. However, any relief granted would be funded fully by the Council and this option was being considered separately as part of the Business Growth Strategy and was therefore subject to a separate report.

**Reasons for the decision:**

The changes in funding to authorities from April 2013 would place an additional burden on the Council and therefore the budgetary provision and policy for the award of discretionary relief required urgent review.

The reasons for the proposed changes were as follows:

- Exclusion of educational establishments from discretionary relief. To provide a fair system of relief and funding for the maintained educational sector and to ensure the efficient use of resources.
- The requirement for small businesses to apply for small business relief before being eligible for discretionary relief. To ensure that the Authority maximises the use of government funding.
- The requirement for sports clubs to be registered as Community Amateur Sports Clubs (CASC) with the HMRC. To remove an anomaly in the system of relief and to provide consistency with the entitlement to mandatory CASC relief.

**Other options considered:**

The recommendations, whilst mainly affecting Educational establishments, would have minimal effects on other groups in the borough and therefore these proposals were considered to be the least unpalatable.

The option to continue with the current arrangements was rejected as the financial effect would be too onerous.

Cabinet:

1. Noted that decisions on the level of discretionary relief will continue to be made by the Group Director of Finance and Commerce under the arrangements set out in this report in Appendices A and B (appended to these minutes).
2. Authorised a change in the current policy so that educational establishments would no longer be eligible for Discretionary relief.

3. Endorsed current practice and with the exception of educational establishments only award discretionary relief to charities or non-profit making organisations, which wholly or mainly benefit Havering residents.
4. Endorsed the current basis of calculation of relief through the assessment sheet, attached at Appendix B (appended to these minutes).
5. Authorised an addition to the current policy to require businesses eligible for Small Business Rate Relief (SBRR) to apply for that relief before consideration of any Discretionary relief
6. Authorised a change to the current policy so that to be eligible for discretionary relief Sports Clubs must be registered with HMRC as Community Amateur Sports Clubs
7. Agreed an allocation of £160k to the Collection fund for the financial year commencing 2013/14, in line with the funding for previous years for non-educational establishments.

**57 CORPORATE PERFORMANCE REPORT 2012/13 - QUARTER 3**

*Councillor Steven Kelly, Cabinet Member for Individuals, introduced the report (in the absence of the Leader of the Council)*

The report before Cabinet set out the performance of the Council's Corporate Performance Indicators for the third quarter (October - December 2012), against the five Living Ambition Goals of the Corporate Plan:

- Environment
- Learning
- Towns and Communities
- Individuals
- Value

Of the 68 Corporate Performance Indicators, 40 were able to be measured quarterly. The remaining indicators were collected on an annual or bi-annual basis only.

The report identified where the Council was performing well and not so well, and highlighted what action the Council was taking to address poor performance where appropriate.

Appended to the report (and to these minutes) was a chart which detailed each of the 68 Corporate Performance Indicators. Officers provided responses to queries raised by Members in respect of some of the performance indicators.

**Reasons for the decision:**

To provide Cabinet Members with a quarterly update on the Council's performance against the Corporate Performance Indicators.

**Other options considered:** N/A

Cabinet NOTED the report.

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**Chairman**

**Appendix A****Charity relief background****Mandatory Relief – Registered charities**

An organisation will qualify for mandatory relief provided the ratepayer is a charity registered with the Charity Commissioners or exempted from registration, and the property is wholly or mainly used for charitable purposes.

Where the property is used as a shop to sell goods to supplement the finances of the organisation, further provisions exist to ensure that relief is only granted where the goods sold have been wholly or mainly donated. This ensures that the shop is not in direct competition with retailers by selling wholesale goods bought from suppliers, including cottage industry and third world output.

Where an organisation meets the conditions of the legislation the relief is a requirement and therefore is actioned as part of the normal administration of Non Domestic Rates (Business Rates), within the Revenue section, although to ensure probity a report of the case is reviewed by the Group Director of Finance and Commerce.

Mandatory relief is 80% of the rate liability, which *may* be supplemented by up to 20% discretionary relief.

The full cost of mandatory relief is currently borne by the non-domestic rate pool and not met directly by the authority. This will change with the revised funding arrangements from April 2013 with the Council sharing the cost on the 50/30/20 split described above.

**Discretionary Relief**

Billing authorities have discretion to grant an award to:

- Top up the award to charities in receipt of mandatory relief
- Grant awards to non-profit making organisations

**Top up to mandatory relief**

**The top up of relief to charities, in addition to the amount of mandatory relief may be made to a maximum of 100% of the rate charge**

Where discretionary relief is granted in addition to mandatory relief, 25% of the discretionary award is offset against payments into the pool and therefore not directly met by the Council the remainder 75% is borne locally through the collection fund. However this funding arrangement changes with effect from 1<sup>st</sup> April 2013.

It is for each authority to judge whether an organisation qualifies for relief and any percentage allowed.

Non-profit making organisations

**Authorities may grant relief of up to 100% to non-profit making bodies where the property is:**

“used by one or more institutions or organisations, none of which is established or conducted for profit and whose main objects are charitable, philanthropic or religious or concerned with education, social welfare, science, literature or the fine arts.”

The cost of any discretionary rate relief granted to non-profit making organisations is borne 75% by the pool and 25% locally through the collection fund. Again the funding arrangements will change from 1<sup>st</sup> April 2013 to the 50/30/20 split described above.

The criteria used within the current policy to assess whether an application for discretionary rate relief in respect of a non-profit making organisation are as follows:

- The extent to which the organisation is local: e.g. the Council do not give rate relief to national charity shops.
- Membership Arrangements for clubs etc : is membership restricted, are the fees excessive
- Membership consistency : what percentage is drawn from the authority residents
- Facilities : are there particular features for vulnerable or needy groups e.g. Disabled, Elderly, youth groups, minority groups
- Are there specialist facilities: which would otherwise be provided by the Council or of particular welfare to the community aimed at Havering residents, or used as a focal point for Havering residents. Specialist Training : Special skills for the young (e.g.: sport), Broader training (e.g.: disabled or training specialists to pass on skill)

Rate relief charged to the non-domestic rate pool is subject to an annual audit through the District Audit procedures.

**Current award arrangements**

An application form is available for all applicants with a covering explanatory leaflet to allow them to indicate their status and their application for the appropriate reliefs.

The Head of Customer Services and the Customer Services Improvement Manager review the applications with a report on the appropriate levels of relief made to Group Director of Finance and Commerce for approval. These powers were

exercised as part of the delegation to Group Director of Finance and Commerce under the authority contained within the Constitution.

Mandatory relief can apply to national and local organisations alike with many national charities receiving relief, particularly with the development of charity shops, and quite often an application for discretionary relief is made with the application for mandatory relief.

To ensure conformity in dealing with applications current practice is to only award discretionary relief to charities or organisations, which wholly or mainly benefit Havering residents, e.g. St. Francis Hospice, and Community Centres.

Whilst the percentage of discretionary relief is open ended to a maximum of 100%, for uniformity of approach the level is considered by reference to an assessment of the organisation using a Discretionary Rate Relief Assessment Sheet (appendix A).

In this way a consistency of approach is maintained.

The calculation starts with a base premise of 0% discretion for mandatory cases and a 50% base for qualifying non profit applicants and is then adjusted to reflect certain conditions. For example, where membership is considered to be restrictive by excessive fees or “blackballing” arrangements the relief would be reduced by 100% or where the facilities offered were directed to the welfare of Havering residents increased by 30%

The sum of these adjustments are applied to the base to provide a guide on the level recommended.

**Discretionary Rate Relief Assessment Sheet**

Does the organisation receive mandatory relief?

Yes / No

Criteria	% change	% allowed
<b>Base discretionary relief - Mandatory cases : 80%</b>		
<b>Discretion only : 50%</b>		
<b>Membership Arrangements –</b>		
Blackballing (membership rejection through secret vote)	-100.00	
Personally known	-80.00	
Excessive fees	-100.00	
Open (no restrictions)	0.00	
<b>Membership consistency –</b>		
less than 50% local	-5.00	
less than 40% local	-7.00	
less than 30% local	-10.00	
less than 20 % local	-25.00	
less than 10 % local	-50.00	
<b>Facilities</b>		
Provision for Elderly	5.00	
Disabled	5.00	
Young	5.00	
Minority	5.00	
Regular use by other organisation	5.00	
<b>Special Facilities</b>		
Which would otherwise be provided by the Council	10.00	
Welfare to the community aimed at Havering residents	30.00	
Focal point for Havering residents	20.00	
<b>Specialist Training</b>		
Special skills for the young (e.g. sport)	5.00	
Broader training (e.g. disabled or training specialists to pass on skill)	10.00	
<b>New Club / Organisation</b>		
First year of existence	10.00	
Second year of existence	5.00	
<b>Provision of bar</b>		
Open to the public with public license	-30.00	
Ancillary to the aims of the club	0.00	
<b>Calculated relief</b>		

Appendix C

**Small business rate relief - Briefing note**

Business ratepayers will be eligible for small business rate relief if they generally occupy only one property and the rateable value is below a certain level. The system varies between England and Wales.

**Small business rate relief in England**

Business ratepayers will be eligible for small business rate relief in England if their rateable value is below £18,000 (£25,500 in London) which means they are charged on lower rate poundage. (For 2013/14 this is 46.2p in £ compared to 47.1p in £)

In addition:

The last national revaluation of properties was undertaken in 2010 and therefore if the 2010 assessed rateable value is **£6,000 or below**, the small business rate multiplier is used and the bill will be reduced by 50 per cent.

However, the Government has doubled the relief, which was extended by the last Budget, to March 2014 with the following levels

- If the 2010 rateable value is **£6,000 or below** small business rate relief at 100 per cent applies (rather than 50 per cent),
- If the 2010 rateable value is **between £6,001 and £11,999** inclusive, the small business rate multiplier is used and the bill will be reduced on a sliding scale - from 100 per cent at the bottom of the range to 0 per cent at the top. For example, if the rateable value is £9,000, the bill will be reduced by 50 per cent.

If the ratepayer has more than one business property, the relief is only available if the rateable value of each of the other properties is below £2,600. If this is the case, the rateable values of all the properties will be combined and the relief is applied to the main property based on the total rateable value.

**Equalities implications and risks:**

When making this decision Cabinet should have due regard to the public sector equality duty. Section 149 of the Equality Act 2010 states:

*A public authority must, in the exercise of its functions, have due regard to the need to:*

- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under this Act;*
- (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;*
- (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.*

*The relevant protected characteristics are:*

- *Age*
- *Disability*
- *Gender reassignment*
- *Pregnancy and maternity*
- *Race,*
- *Religion or belief*
- *Sex*
- *Sexual orientation*
- *Marriage and Civil partnership*

An Equalities Impact Assessment has identified the main impact on protected groups and the mitigation measures are as follows:

**Age** – many organisations potentially affected are used by younger people (e.g. scouting/guiding and sports clubs). In addition, a number of schools are affected, with a potential impact on students attending these schools.

Mitigating measures –Sports clubs will still be eligible for assistance through its Community Amateur Sports Club affiliation and other groups can still be considered for relief as not for profit bodies. Many educational establishments are also charities and as such will still qualify for mandatory rate relief. In the context of a school's budget, the financial impact of removal of discretionary relief is very small and in the case of establishments subject to the Dedicated School Grant will be finance neutral.

**Disability** – there are no plans which will directly impact upon disabled groups or individuals

**Religion** – many of the VA schools affected are faith based and as such the impact of changes may affect certain faiths more than others.

Mitigation measures - it is expected that any impact on VA schools will be finance neutral. The proposal ensures that schools are treated fairly regardless of the community they serve and schools with charitable status will still be able to apply for mandatory relief.

As a result of the Equality Impact Assessment, a review process will be introduced and organisations will be expected to provide monitoring information to show the impact of any proposed changes on particular protected groups. This report also recommends that further consultation is undertaken on other possible changes to eligibility criteria. Following this consultation, the Equality Impact Assessment will be reviewed to identify any equality implications

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