

**MAIDSTONE BOROUGH COUNCIL**

**CABINET MEMBER FOR CORPORATE SERVICES**

**REPORT OF THE ASSISTANT DIRECTOR OF CUSTOMER SERVICES**

**Report prepared by Tony Jeyes**

**Date Issued: 10 September 2009**

**1. NATIONAL NON-DOMESTIC RATES – DISCRETIONARY, RATE RELIEF**

**1.1 Issue for Decision**

1.1.1 This report outlines the current position regarding the non domestic rate relief currently awarded in respect of the occupation of the Maidstone Leisure Centre by the Maidstone Leisure Trust and the possible consequences of a change to that relief in the event of Maidstone Leisure Trust losing charitable status.

1.1.2 An application for discretionary rate relief based on the criterion that the centre is used for recreation and is occupied by a non profit distributing organisation (NPDO), in the event of a change in the charitable status has been refused by me, as it is not in accordance with current policy guidelines. The applicant has now made an appeal against that decision and has asked for the matter to be considered by the Cabinet Member.

**1.2 Recommendation of Assistant Director of Customer Services**

1.2.1 That for the reasons set out in this report, in the event of the removal of Friendly Society status from Maidstone Leisure Trust and its non-acceptance as a registered charity by the Charity Commission, then 94% Discretionary Rate Relief be awarded to the Trust on the basis that the centre is occupied by a NPDO and is used for recreational purposes; the relief to stay in force whilst the Maidstone Leisure Trust occupies the centre.

**1.3 Reasons for Recommendation.**

1.3.1 The council's current policy guidelines regarding rate relief for charitable and other similar organisations does not provide for relief to be awarded to recreational organisations such as the Maidstone Leisure Trust in the circumstances described above.

1.3.2 The current policy guidelines do not allow for any discretionary rate relief to be awarded other than to Youth Organisations and Village Halls.

1.3.3 Discretionary relief in this case could be awarded in accordance with the provisions of Section 47(2)(c) of The Local Government Finance Act

1988, as the leisure centre is wholly or mainly used for the purposes of recreation, is occupied by an organisation that is not established or conducted for profit and is completely open to all members of the public.

- 1.3.4 The allowing of the appeal and granting the relief will support the council's aims to provide sport for all and encourage a healthy lifestyle by ensuring the facilities remain open to the residents of Maidstone.

1.3.5 **The Maidstone Leisure Trust**

The Maidstone Leisure Trust occupies the Maidstone Leisure Centre in Mote Park. To date it has been awarded 80% Mandatory Charitable Rate Relief and an additional 14% discretionary relief in respect of the usage of the property by persons regarded as being "Youth".

- 1.3.6 There were two bodies responsible for the registration of charities. The Charity Commission dealt with registered charities and the Financial Services Authority registered Friendly Societies. However, registration for both Charitable or Friendly Society Status is now dealt with by the one body – the Charity Commission. Some organisations that did not meet the requirement for Charitable Registration obtained qualification as a Friendly Society. The Charity Commission will now review such organisations to determine whether or not the charitable registration is appropriate.
- 1.3.7 The Trust has made an application to the Charity Commission to become a registered charity and expect a response shortly. In the event that the Trust's registration is not accepted and it later ceases to be a friendly society, it may no longer be possible to allow 80% Mandatory Charitable Rate Relief. This would have a financial impact on the running of the Leisure Centre and the viability of the Trust.
- 1.3.8 The current position is that 14% Discretionary Top-Up Relief out of the available 20% has been awarded under the council's current policy guidelines to reflect the percentage usage of the centre by persons regarded as "youth", as the Trust has demonstrated that 70% use of the center is youth related.
- 1.3.9 The Trust has requested that level of discretionary rate relief awarded in the event of it losing its charitable status continues to reflect the use of the centre by persons regarded as "youth". The policy guidelines refer to the 80% relief applicable to charities and the additional 14% reflects the use of the centre by persons regarded as "youth".
- 1.3.10 The request for relief was initially refused by officers as it is outside the current policy guidelines for discretionary rate relief. The Trust has now requested that the application be considered by the Cabinet Member, which is in accordance with current guidelines.

- 1.3.11 The Trust will continue to have charitable articles and be non profit making. The centre is wholly open to the public for recreational purposes and has a significant, 70%, youth orientation. Therefore, although the application is outside current guidelines, the granting of 80% discretionary rate relief is possible under the legislation and a further 14% may be awarded to reflect the youth related activity.
- 1.3.12 If relief is awarded as recommended, the Trust would therefore be able to continue to operate the centre and provide the excellent varied program of recreational activities as at present, meeting several of the council's priorities for all residents of the borough. Should the Trust not be awarded the discretionary relief, it may not be able to operate the centre and may possibly have to fold.
- 1.3.13 The value of the discretionary relief awarded is £26,990.25. As mandatory rate relief has been allowed, 75% of any discretionary relief is borne by the billing authority. The awarding this top-up relief means that there is a charge of £20,242.69 to the Council's General Fund. If the Mandatory Relief is withdrawn as a result of any review of the charitable status of the Trust, the Trust has requested that Discretionary Rate Relief be awarded instead.
- 1.3.14 In the event that 94% Discretionary rate Relief is awarded, this would amount to £181,220.25. However, as no mandatory rate relief would be allowed, 25% of the discretionary relief is borne by the billing authority. The awarding of 94% discretionary rate relief will mean that there is a charge of £45,305.06 to the Council's General Fund.
- 1.3.15 As stated above, the current cost to the Council is £20,242.69. The Trust will agree that they will meet the additional cost of giving the rate relief if 94% discretionary rate relief is granted in the event that Charitable or Friendly Society status is removed upon the review.
- 1.3.16 The amount recompensed by the Trust will be the full £25,062.38 difference (adjusted for inflation every year), meaning that there will be no additional financial effect on the Council.

#### 1.4 Alternative Action and why not Recommended

- 1.4.1 Relief could either be refused or a lower amount awarded. However, should the Trust not be awarded the amount of discretionary relief recommended in this report, it may not be able to operate the centre and may possibly have to fold.

#### 1.5 Impact on Corporate Objectives

- 1.5.1 None

1.6 Risk Management

- 1.6.1 There is the possibility that another organisation seeking relief may apply for discretionary relief where they do not qualify for mandatory relief. Such applications would have to be dealt with equitably and on their own merits. However, there are currently no other not for profit organisations that officers are aware of that are providing recreational facilities that are freely open to the public. As such, the risk is considered to be low.

1.7 Other Implications [Insert an 'X' in the boxes below to indicate if the recommendations will have any implications in the specified area]

1.7.1

1. Financial
2. Staffing
3. Legal
4. Equality Impact Needs Assessment
5. Environmental/Sustainable Development
6. Community Safety
7. Human Rights Act
8. Procurement

X
X

- 1.7.2 The financial details and legal implications are listed above.

1.8 Background Documents

*None*

1.9 Reason for Urgency

The report is urgent as it affects the ability of the Maidstone Leisure Trust to enter into a contract with the council for the management and running of the Maidstone Leisure Centre.

Is this a Key Decision?	Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>
If yes, when did it appear in the Forward Plan? _____				
Is this an Urgent Key Decision?	Yes	<input type="checkbox"/>	No	<input checked="" type="checkbox"/>
<u>Reason for Urgency</u>				

### **How to Comment**

Should you have any comments on the issue that is being considered please contact either the relevant Officer or the Member of the Executive who will be taking the decision.

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