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BY FAX & POST
FAX NUMBER: 020 7242 6044

16th January 2013

Dear Sirs,

Re: Haringey Council's Council Tax Reduction Scheme

1. I am writing on behalf of the London Borough of Haringey ("the Council") in response to your three letters dated 11th January 2013, two of which contain confidential details relating to your clients, and the other (the 'First letter') which sets out your clients' explanation of a possible legal challenge to the Council Tax Reduction Scheme that has been recommended by officers in its report dated 9 January 2013. That recommendation will be considered at a meeting of the full Council on 17th January 2013.
2. You have asked for the contents of the letter setting out your clients' possible legal challenge to be circulated to all members of the Council. I can say that this will be done. As a consequence, there is no doubt that the matters set out in your letter will be drawn properly to members' attention, and will be accorded appropriate weight in the decision-making process at the meeting on 17th January 2013. As you will no doubt appreciate, the decision with respect to the Scheme is to be made by members' themselves, and the report

to Council is designed to assist them with respect to their process. It is not binding on members.

3. As I read your letter, you are inviting the Council not to adopt the scheme recommended by officers, but to adopt a scheme which accords with the Government's Transitional Grant Scheme and which 'protects' families with disabled children, and pregnant women and nursing mothers. I cannot confirm that such a scheme will be accepted by the Council, but will arrange for these details to be examined by officers and presented to members in a separate supplementary report, so that it can be considered by the Council at its meeting on 17th January 2013 alongside the proposal recommended by officers.
4. In the circumstances, I do not consider that it is necessary to address your various legal submissions. To do so would be to pre-empt the outcome of the decision that has to be made by members themselves. It is appropriate, however, to address some of the factual matters set out in your First letter, so that members (who will have sight of this letter) can have a more complete picture of the background facts.

Council Tax Reduction Scheme

5. On 29th August 2012, the Council commenced consultation on proposals to introduce a Council Tax Reduction Scheme from 1st April 2013, to replace the Council Tax Benefit regime that will be abolished as of that date. The Council's preferred option included the reduction of payments of 'benefit' to all working age claimants of Council Tax Benefit by an equal flat proportion, reflecting the reduction in Government funding for the locally designed regime. As required by law, those of pensionable age would continue to receive the same support that they would have received under the current regime.
6. The Council initially estimated that the shortfall between Government funding and the increasing number of people claiming benefit and the cost of protecting pensioners 'could be as much as £5.7 m next year and this could rise in later years.'

7. In its consultation documents, the Council highlighted the cost to households of a 20% reduction to Council Tax Benefit recipients of working age (e.g. for Band A properties, it was explained that the Council Tax charge would be £994.04, and the amount to pay per year as a result of a scheme whereby 20% had to be paid would be £198.81, or £3.82 per week). I disagree, therefore, with your suggestion that the report – to which the consultation documents, and these examples are attached – fails to ‘sufficiently consider’ the question of non-payment, which you say ‘could include (for example) actual calculations of the detriment that this will cause ‘average’ families currently receiving 100% benefit.’ The figures for individual households, and the impact on them of a 20% reduction, will be available to members.

8. Consultation was due to close on 19th November 2012. If no Council Tax Reduction Scheme was agreed by the Council, a default scheme would come into operation as a matter of law: this would continue the current rebate regime, but with reduced Governmental assistance. In its report to the Council, officers have explained that adopting the default scheme would mean that the Council would have a shortfall of £3,846,000 (net of GLA) and have commented that the Council ‘is not in a financial position to absorb this without further cuts to services.’ The revised estimate of £3.846m is due to clarity in the level of funding from Government received as part of the draft financial settlement on 19 December 2012, and a revised level of expected growth. Furthermore, the figure of £5.7m consulted upon included the GLA’s share of the reduction, estimated to be £1.2m. The technical changes to council tax sit outside of the scheme and as such are not included in the figure of £3.846m set out above. The Council’s share of the additional projected income of £726k raised from council tax technical changes is £573k.

9. On 16th October 2012, the Government announced that it would introduce a Transitional Grant Scheme. For a one-year period, the Government would provide a ‘transitional grant’ to those local authorities that introduced a local scheme whereby those currently receiving 100% relief paid no more than 8.5% of their Council Tax liability. On 18th October 2012, the Government published the

amounts that local authorities could claim if it complied with the Government's conditions: for the Council, this was a figure of just over £700,000.

10. In making their responses to the Council's consultation process, it was open to consultees to make reference to the Government's Transitional Grant Scheme. Indeed, I am sure that you have noted that the Greater London Authority, one of the statutory consultees, referred in its response dated 19th November 2012 (Appendix G7 page 79 of the Council report) as follows:

"Impact of the Government Announcement on 16 October of an Additional £100m to Support Development of Council Tax Support Schemes

Before determining its final scheme the GLA would encourage Haringey to take into account the Government's announcement on 16 October that it will provide up to £100m of additional reward grant to authorities which adopt schemes which limit the impact of changes in council tax support on working age claimants. Haringey's share of this Transition Grant would be £0.706 million with GLA receiving £0.182 million.

The GLA notes that Haringey's draft scheme as designed would not meet the Government's criteria for the incentive grant. In order for it do to the maximum amount payable by claimants currently in receipt of 100% council tax benefit would have to not exceed 8.5% of their council tax liability."

This will, no doubt, be considered by members when making their decision.

11. It was also open to consultees to make other observations on the Council's preferred option, had they wished to, including the suggestion contained in your First letter that, rather than passing on (all or some of) the shortfall to residents who currently receive Council Tax benefit, the Council raises Council tax on other residents, or cuts services. Indeed, I note that some consultees did respond by saying that the Council could raise taxes or cut services. These responses will, obviously, be considered by members when they make their decision on 17th January 2013.
12. In their report to the Council, officers have referred to the Government's Transitional Grant Scheme at paragraph 4.5. (and not just at paragraph 10 and

10.11 'in particular' as referred to in your First letter). I note that the report explains at paragraph 4.5 that:

"On the 18th October 2012 the DCLG issued details of an additional £100m they were making available to support local authorities to develop a CTRS that fits within specific criteria as set out by Government. The announcement was made after the consultation had begun, similar to many other local authorities.

Local authorities would have to apply for the transition grant before 15th February 2013 and, if all the qualifying criteria were met, the grant would be paid in March 2013. The additional grant would initially be available for one year only. The Haringey share of the £100m would be £706,021 (Council share excluding GLA £182,848).

In order to qualify for the transition grant the Council would have to limit the amount of the cut passed on to the claimants to 8.5%. The cost of limiting the amount passed on is only partially covered by the Transition Grant which means there will be a cost to the Council if it decides to apply for the Grant.

With proposals for reduction of 19.8% for Haringey, this would mean that the additional loss in funding over the 8.5% would have to be found from outside the Scheme, potentially through cuts to services. Taking into account this grant the shortfall would be £1.489m for Haringey Council (net of GLA)."

This will no doubt be considered by members.

The Council's Reserves

13. You have made mention in your First letter to the Council's reserves, suggesting that these could be used to 'mitigate the consequences' of the Government's removal of support for Council Tax liabilities for the Council's poorest residents. It is correct that the Council's Statement of Accounts for 2011/12 refers to the Council having 'Usable Reserves' in excess of £108 million and this is the latest reported position. It is incorrect to say that all of these reserves can be spent by the Council to meet unexpected liabilities as certain reserves must only be spent on specific areas, such as schools and housing, and on specific expenditure categories such as capital.

14. In response to your specific requests for information, the Council's reserves for the past 3 years were as follows:-

Date	Usable Reserves
31/3/12	£108.4m
31/3/11	£94.4m
31/3/10	£103.8m

and the relevant page from the Council's Statement of Accounts is enclosed herewith. The Council does not have a specific target for its level of reserves but the Council's Chief Finance Officer does review the level annually to ensure an appropriate level is maintained. The Council no longer maintains a 'risk reserve'; the funds have been transferred to a Transition Reserve which is currently used to fund redundancy costs. The Council has been forced to incur significant headcount reductions, and will continue to do so, as spending is reduced in line with Government funding reductions.

15. It is correct that, in principle, the Council could draw on some of its reserves to meet the shortfall in funding arising from the abolition of the Council Tax Benefit regime, so as not to pass on any, or some, of the consequences to residents of the Council who currently receive those benefits. Nevertheless, reserves can only be used once, and as has been pointed out by the Council's Chief Finance Officer in the report to Council at 10.11, dealing with the Government's Transition Grant, 'Given the overall financial pressures that the Council faces in the short term future it is difficult to make the case for accepting the transition grant in terms of the Council's financial position.' The reference to 'short term' pressures was intended to include the benefit reforms; uncertainty around the new funding regimes in particular the localisation of business rates; demographic pressures and an estimated budgetary gap in 2014/15 of £20m.
16. You suggest that the Council will have to draw on its reserves in any event as a result of non-payment by residents who are unable to afford to pay the tax, and that 'the Council could simply choose now to meet this unexpected liability [of meeting the shortfall] from its reserves.' This point is one that members are aware of and will consider when making their decision on 17th January 2013.

Equality Act 2010

17. In your First letter you refer to the Equalities Impact Assessment that is appended to the officers' report. You also commend officers for recommending that, following the consultation, 'disabled people' will also be protected from the reduction.
18. You contend, however, that the information that will be before the Council is 'insufficient for the Council to comply with its obligations under the Equality Act 2010', referring specifically to the issue of parents of disabled children, and pregnant women and nursing mothers.
19. With respect to parents of disabled children, you seem to be under the impression that the officers' recommendation treats parents of disabled children differently from disabled adults. That is not correct. Parents of disabled children are protected from the changes created by the proposed scheme, and as such will continue to receive the same support as they do currently, provided that the parent is in receipt of one of the 6 disability premiums:
 - Disability Premium
 - Disabled Child Premium**
 - Enhanced Disability Premium
 - Enhanced Disability Child Premium**
 - Carer Premium**
 - Severe Disability Premium
20. With respect to pregnant women and nursing mothers, you have referred to the research of Professor Michael Crawford, and information about Haringey. This information will be made available to members before making their decision.

Conclusion

21. We note your clients' position with respect to a possible letter before action, and confirm that any such letter should be sent to the Head of Legal Services.

Yours Sincerely,

Bernie Ryan

Bernie Ryan
Head of Legal Services

Balance Sheet

The Balance Sheet shows the value as at the balance sheet date of the assets and liabilities recognised by the authority. The net assets of the authority (assets less liabilities) are matched by the reserves held by the authority. Reserves are reported in two categories. The first category of reserves are usable reserves, ie those reserves that the authority may use to provide services, subject to the need to maintain a prudent level of reserves and any statutory limitations on their use (for example the Capital Receipts Reserve that may only be used to fund capital expenditure or repay debt). The second category of reserves includes reserves that hold unrealised gains or losses (for example the Revaluation Reserve) where amounts would only become available to provide services if the assets are sold; and reserves that hold timing differences shown in the Movement in Reserves Statement line "Adjustments between accounting basis and funding basis under regulations".

1 st April 2010 £'000	31 st March 2011 £'000		Notes	31 st March 2012 £'000
1,727,561	1,521,264	Property, Plant and Equipment	12	1,436,697
4,054	4,056	Heritage Assets	13	6,061
48,099	52,706	Investment Property	14	50,774
1,785	1,237	Intangible Assets	15	1,086
440	540	Assets Held for Sale	21	5,603
438	2,462	Long Term Debtors	19	2,334
<u>1,782,377</u>	<u>1,582,265</u>	Long Term Assets		<u>1,502,555</u>
28,737	24,117	Short Term Investments	16	15,105
122	89	Inventories	17	44
88,612	70,955	Short Term Debtors	19	63,825
17,754	33,755	Cash and Cash Equivalents	20	17,152
<u>135,225</u>	<u>128,916</u>	Current Assets		<u>96,126</u>
-	(14,462)	Cash and Cash Equivalents Overdrawn	20	(15,762)
(65,472)	(64,933)	Short Term Borrowing	16	(78,515)
(70,145)	(75,496)	Short Term Creditors	22	(69,203)
(3,009)	(21,174)	Provisions	23	(8,434)
<u>(138,626)</u>	<u>(176,065)</u>	Current Liabilities		<u>(171,914)</u>
(4,494)	(2,386)	Long Term Provisions	23	(2,804)
(587,254)	(580,760)	Long Term Borrowing	16	(325,130)
(648,712)	(429,816)	Other Long Term Liabilities	39	(502,644)
(25,816)	(23,110)	Capital Grants Receipts in Advance	40	(14,036)
<u>(1,266,276)</u>	<u>(1,036,072)</u>	Long Term Liabilities		<u>(844,614)</u>
<u>512,700</u>	<u>499,044</u>	Net Assets		<u>582,153</u>
103,844	94,394	Usable Reserves	24	108,437
408,856	404,650	Unusable Reserves	25	473,716
<u>512,700</u>	<u>499,044</u>	Total Reserves		<u>582,153</u>

An opening balance sheet is required by IAS 8, where there has been a change to accounting policies for which there is a material impact. The above restatement reflects the requirements of the 2011 Code of Practice in relation to Heritage Assets. Further details of the effect of this adjustment are disclosed in Note 54 to the accounts.

