

**To the Chair and Members of the
ELECTIONS & DEMOCRATIC STRUCTURES COMMITTEE**

**DETERMINATION OF HARDSHIP RELIEF APPEAL – DONCASTER SHEFFIELD
AIRPORT LIMITED**

EXECUTIVE SUMMARY

1. The Council is required to determine an appeal by Doncaster Sheffield Airport Limited (DSAL) against the decision of the Council, acting as Billing Authority (BA), refusing to grant Discretionary Hardship Relief from its Business Rates liability under Section 49 of the Local Government Finance Act 1988.

EXEMPT REPORT (Appendix 2)

2. Whilst this report and the written submissions which form Appendix 1 are public documents to ensure transparent and open accountability within the Council's decision-making framework, the information contained within Appendix 2 to this report (legal briefing note) is exempt under paragraph 5 of Schedule 12A of the Local Government Act, 1972, as amended (information in respect of which a claim to legal professional privilege could be maintained in legal proceedings).

RECOMMENDATION

3. The Committee is recommended to make its determination based on the written representations of DSAL and BA attached at Appendix 1 to this report.

BACKGROUND

4. DSAL made an application for Discretionary Hardship Relief to BA on 31st October 2006 for a period of 5 years commencing on 28th April 2005. BA rejected the application on 21st February 2007. DSAL subsequently appealed in March 2007 and under the Council's Constitution such appeals are to be determined by the Elections and Democratic Structures Committee. The Monitoring Officer took the view that the appeal should be conducted by way of written representations and throughout 2007/8 the parties have submitted their respective representations.

RISKS AND ASSUMPTIONS

5. There is a risk of legal challenge if the Committee does not make a reasoned determination based on the parties' written representations.

LEGAL IMPLICATIONS

6. Section 49 of the Local Government Finance Act 1988 provides that a billing authority may reduce the amount of business rates a ratepayer is liable to pay but only if it is satisfied that the ratepayer would sustain hardship if the authority did not do so, and it is reasonable for the authority to do so having regard to the interests of persons liable to pay council tax set by it.
7. Members will receive, at the meeting, advice from an independent specialist rating Counsel.

FINANCIAL IMPLICATIONS

8. 75% of any hardship relief is met by way of a deduction from the council's contribution to the national rate pool and is therefore not a cost to the billing authority. The remaining 25% however, must be met by the billing authority from its general fund. It would therefore cost Doncaster Council approximately £961,262.85 if this application were granted. This represents 25% of the relief awarded over a five-year period from 2005/2006 to 2009/2010. The way this has been calculated is shown in the following table:

Year	Business Rates charged	25% cost to The Billing Authority
05/06	£679,963.40 (actual)	£169,990.85
06/07	£753,420 (actual)	£188,355
07/08	£772,560 (actual)	£193,140
08/09	£803,880 (actual)	£200,970
09/10	£835,231 (estimated)	£208,807
Total		£961,262.85

9. An estimate of the charge for 2009/2010 is shown. In the previous two years the rates bill has increased by 3.9%. The charge for 2009/2010 therefore assumes the same increase. The final amount for 2009/2010 may however, be different dependant on the final Business Rate Multiplier, which is set by the government.
10. Such a cost would have to be recouped in future years by way of an increase in Council Tax bills for all Doncaster Council Tax Payers. The amounts shown above would represent an increase in Council Tax of 1.1% overall, for 2009/2010 given that it is not possible to go back and reset Council Taxes for previous years.

CONSULTATION

11. Both parties are aware of and satisfied with the appeal process adopted by the Council.

BACKGROUND PAPERS

12. None

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