

FOR PUBLICATION

VAT TREATMENT OF VENUE HIRE **T250**

MEETING: (1) CABINET
(2) CABINET MEMBER FOR TOWN CENTRE & VISITOR ECONOMY

DATE: (1) 22 SEPTEMBER 2015
(2) 14 SEPTEMBER 2015

REPORT BY: ARTS AND VENUES MANAGER

WARD: ALL

COMMUNITY ASSEMBLY: ALL

KEY DECISION REFERENCE: 552

FOR PUBLICATION

BACKGROUND PAPERS None

1.0 **PURPOSE OF REPORT**

1.1 To advise members of the proposed changes to the application of VAT in respect of the Council's theatres and associated facilities and services.

2.0 **RECOMMENDATIONS**

2.1 To recommend for approval that VAT is charged on all new hires at the Winding Wheel and Pomegranate Theatre as from 1 October 2015, as required by HM Revenue and Customs.

2.2 That all existing hire agreements at the Winding Wheel and Pomegranate Theatre are to be honoured at the previously agreed rates.

2.3 That the regular hirers at the Winding Wheel, who have a rolling hire agreement with the Council, will commence paying VAT on bookings from 1 April 2016, on the renewal of their agreement.

2.4 That no VAT is charged on hires at Hasland Village Hall.

3.0 **BACKGROUND**

3.1 VAT is levied on most goods and services provided by registered businesses in the UK. The default VAT rate is the standard rate, 20% since 4 January 2011. Some goods and services are subject to VAT at a reduced rate of 5% (such as domestic fuel) or 0% (such as most food and children's clothing). Others are exempt from VAT or outside the system altogether.

3.2 Supplies of land and buildings, such as freehold sales, leasing or renting, are normally exempt from VAT. However, the owner can opt to tax land.

3.3 The Council owns the following buildings: Pomegranate Theatre, Winding Wheel, Hasland Village Hall and the Market Hall, and hires out part of these premises to third parties.

3.4 The Council opted to tax the Market Hall (which includes the Assembly Rooms) due to the intrinsic commercial nature of the building, but it did not opt to tax the Pomegranate Theatre, Winding Wheel, and Hasland Village Hall.

4.0 **CURRENT SITUATION**

4.1 Currently VAT is not charged on the hire of rooms at the Winding Wheel or Hasland Village Hall. VAT is charged on the hire of rooms at the Assembly Rooms at the Market Hall; whilst at the Pomegranate Theatre, VAT is currently charged on 60% of the value of the theatre hire cost. This level of VAT was agreed with HM Revenues and Customs (HMRC) some years ago.

4.2 Where separately identified, VAT is charged on the supply of services in addition to the room hire. Typically this might include the hire of technical equipment, the provision of technical staff, or catering services.

4.3 Currently all hires of the Pomegranate Theatre include the supply of services in addition to the room hire, such as the provision of technical and front of house staff, and box office services. These services are not separately identified and are included in the theatre hire cost. The

current fees and charges for the Pomegranate Theatre are included in Appendix 1.

- 4.4 Most of the room lettings at the Winding Wheel also require additional services, and these are separately identified and VAT is charged for the supply of these services. However, VAT is not charged for theatrical hire of the Winding Wheel and this does include the supply of services in addition to the room hire, such as the provision of technical and front of house staff, and box office services. These services are not separately identified and are included in the theatre hire cost. The current fees and charges for the Winding Wheel are included in Appendix 2.
- 4.5 The vast majority of the lettings of Hasland Village Hall are for the use of the hall, and/or kitchen and /or meeting room and do not require any additional services to be provided. The current fees and charges for Hasland Village Hall are included in Appendix 3.

5.0 VAT TREATMENT

- 5.1 Following queries recently raised by a number of other local authorities, which manage theatres, HMRC and the Chartered Institute of Public Finance and Accountancy (CIPFA) have issued new guidance on theatre hire.
- 5.2 The advice from HMRC concludes:
- “If various services and facilities are to be provided alongside the interest in land it would be difficult for a local authority to argue that it is undertaking a passive activity in simply supplying an interest in land. As a result it is likely that in the majority of cases what is being supplied is a single taxable supply of theatrical facilities rather than an exempt interest in land because the nature of the supply is not just that of the land itself which means it can never be exempt.” A copy of the full memo received from HMRC is attached at Appendix 4.
- 5.2 CIPFA has accepted HMRC’s position on theatre hire, that it is a standard rate supply of facilities. A copy of CIPFA’s guidance is attached at Appendix 5.
- 5.3 The implication of this advice is that where other services are provided in addition to the hire of a room and in connection with the hire, then the hire of the room may not be treated as VAT exempt. In accordance with this updated advice hires at the Winding Wheel and the Pomegranate Theatre should be subject to VAT.

6.0 **PROPOSAL**

- 6.1 VAT is to be charged on all hires of the Winding Wheel for all new hires as from 1 October 2015. The schedule of fees and charges is to be altered to include VAT as from this date.
- 6.2 VAT is to be charged on 100% of the theatre hire cost of the Pomegranate Theatre for all new hires as from 1 October 2015. The schedule of fees and charges are to be altered to include VAT as from this date.
- 6.3 Following advice from the Council's legal services, it is proposed that all existing hire agreements at the rates agreed are to be honoured.
- 6.4 However, the small number of regular hirers at the Winding Wheel who have a rolling hire agreement with the Council are to be written to with details of the necessary changes to VAT treatment of the hire of theatres. It is proposed that VAT will be charged on future bookings from 1 April 2016 on the renewal of their agreement.
- 6.5 Because the majority of room bookings at Hasland Village Hall do not require any additional services to be provided, room hire charges will continue to be classified as VAT exempt.
- 6.6 It should be noted that the theatres at Mansfield and Newark, both managed by their respective local authorities, introduced VAT on their premises hire charges earlier this year.

7.0 **FINANCIAL IMPLICATIONS**

- 7.1 The income from lettings at the Winding Wheel was approximately £86,000 for the 2014/15 financial year. No VAT was charged on this income.
- 7.2 The income from theatre hire at the Pomegranate Theatre was approximately £88,000 for the 2014/15 financial year. VAT was charged on 60% of this income.
- 7.3 The income from lettings at the Hasland Village Hall was approximately £24,000 for the 2014/15 financial year. No VAT was charged on this income.
- 7.4 Everything else being equal, based on 2014/15 figures, if VAT was charged as proposed, approximately £17,200 VAT would be charged on

Winding Wheel lettings , and an additional £7,040 would be charged on Pomegranate Theatre hire.

- 7.5 The charging of VAT will impact on hirers in different ways. Those hirers who are already registered for VAT would be able to offset the VAT payable on theatre /room hire against the VAT due to HMRC on their income, and therefore would not be affected by the change.
- 7.6 However, for those hirers who are not registered for VAT, the charging of VAT on theatre/room hire would be equivalent to a 20% increase on rates for those hiring the Winding Wheel, and approximately 7% increase on rates for those hiring the Pomegranate Theatre.
- 7.7 Many of the hirers at the Winding Wheel are registered for VAT. Currently fifteen of the twenty six hirers are registered for VAT, and this is approximately 58%.
- 7.8 However, very few of the hirers of the Pomegranate Theatre are registered for VAT. Currently three of the twenty one hirers are registered for VAT, and this is approximately 14%.
- 7.9 It is important that the Council applies VAT to the hire charges at the Winding Wheel and Pomegranate Theatre as soon as is practicably possible. HMRC could determine that VAT should have been charged earlier and the Council may have to re-pay VAT on historical transactions, and also possibly interest and penalties. However, the guidance from HMRC was given in December 2014 and CIPFA confirms that this represents a change in policy. The Council's exposure is therefore limited.

8.0 RISK MANAGEMENT

- 8.1 The table below outlines the risks and mitigation actions related to this project.

Description of the Risk	Impact	Likelihood	Mitigating Action
HMRC determine that VAT should be charged on hire fees for the Winding Wheel and Pomegranate Theatre	Medium	Possible	Introduce the charging of VAT on hires asap.

Description of the Risk	Impact	Likelihood	Mitigating Action
HMRC determine that VAT should be charged on hire of Hasland Village Hall	Low	Unlikely	Maintain accurate records of what was provided to hirers in addition to room hire.
Existing hirers object to increase in hire fee	Medium	Possible	Clear early communication to hirers of proposed changes.
Commercial impact on increased hire fees for the Winding Wheel and Pomegranate Theatre	Medium	Possible	Consider the impact of the introduction of VAT on theatre hires when reviewing fees and charges for 2016.
Decreased number of community group hirers	Medium	Possible	Offer existing community groups the use of facilities at Hasland Village Hall or the Assembly Rooms

9.0 EQUALITIES IMPACT ASSESSMENT (EIA)

9.1 The Council has agreed both a Venues Programming Policy and an Arts and Culture Strategy. These documents identify, in more detail, the impact that these proposed price increases will have on the various equalities groups and an action plan to militate against any negative impact will be developed. The Equality Impact Assessments are available from the Policy Service.

10.0 ALTERNATIVE OPTIONS TO BE CONSIDERED

10.1 The Council could reduce the base hire charges at both the Pomegranate Theatre and Winding Wheel, which would result in payment of VAT, as required, but the hirer not being subject to a rise in hire tariffs.

10.2 The Venues Review carried out in 2011 concluded that in order to secure the long term sustainability of the service the Council's subsidy needed to be reduced. One of the mechanisms identified within the Review was to adjust hire rates, which were considered to be too low. At that time the existing community hire rates at both venues did not adequately cover the running costs. It was estimated that community hire rates were approximately 25% too low at the Pomegranate Theatre and 12% too low at the Winding Wheel, if the costs of hire was to be recovered. It was subsequently agreed by Cabinet that hire rates should reflect the actual costs incurred and new charges should be introduced, on a phased basis, over a three year period to achieve this aim. Hire charges have subsequently been increased and we are now in a position where hire charges do cover the running costs. To reduce the base hire charges would undermine the achievements made to date and will increase the Council's subsidy.

11.0 RECOMMENDATIONS

11.1 To recommend for approval that VAT is charged on all hires at the Winding Wheel and Pomegranate Theatre as from 1 October 2015, as required by HM Revenue and Customs.

11.2 That all existing hire agreements at the Winding Wheel and Pomegranate Theatre are to be honoured at the previously agreed rates.

11.3 That regular hirers at the Winding Wheel, who have a rolling hire agreement with the Council, will commence paying VAT on bookings from 1 April 2016 on the renewal of their agreement.

11.4 That no VAT is charged on hires at Hasland Village Hall.

12.0 REASONS FOR RECOMMENDATIONS

12.1 To ensure that the Council complies with current VAT requirements.

You can get more information about this report from Anthony Radford (Tel: 01246 345339).

ANTHONY RADFORD
ARTS AND VENUES MANAGER

Officer recommendation supported.

A Serjeant

Signed

Cabinet Member

Date 14/9/2015

Consultee Cabinet Member/Deputy Cabinet Member comments (if applicable)/declaration of interests

N/A