

Date of Meeting: 15th October 2020

Memorial Benches

1. Purpose of Report

To consider recommendations for the review of the Memorial Benches Policy

2. Background

Earlier in 2020 a specialist VAT consultant was appointed to review all the town councils' financial activities to ensure that VAT was being calculated appropriately. Within the subsequent report that followed there were several recommendations that needed to be addressed which included the review of the current Memorial Bench policy.

3. Considerations

The following is an extract from the VAT consultants report on the town council's current Memorial Bench policy –

The council has an unusual policy in relation to memorial benches and trees, although I have seen a similar policy elsewhere in Cheshire and there may be someone locally promoting this approach:

- *Most councils operate on the basis that a bench (or tree) is provided, owned and maintained by the council for public benefit. The donor provides funding to meet the actual cost of the item (including installation) and there is generally a small plaque in acknowledgement, but the donor takes no further responsibility for the asset. Under these circumstances, any donation is outside the scope of VAT.*
- *The council's approach is to "lease" a bench to applicants in return for a payment, although the council then takes responsibility for repair and maintenance during that period and the purchaser appears to have no actual rights over the item. The council's paperwork seems to fall far short of granting a lease over immovable property, nor does there seem to be a genuine lease of equipment taking place.*
- *There is no mention of insurance in the agreement, but if a third party injured themselves on a defective bench, they are likely to pursue the council, rather than the notional owner. I seriously doubt that a court would accept that the funder had any ownership or liability for the bench.*
- *However, the wording of the agreement presents the situation as being the supply of goods and it would therefore be a taxable supply, subject to 20% VAT.*
- *The council may want to review its policy and consider whether simply accepting donations towards council-provided benches and trees (with or without a modest acknowledgement) might be simpler and would avoid having to charge VAT to people*

- *Recommendation - We suggest that the council looks at simplifying its policy on memorial benches and checks whether VAT has been charged on these from 2016/17 onwards.*

In considering the consultants recommendations the Clerk has reviewed the existing policy and prepared the attached draft.

4. Recommendations

4.1 That members consider the draft policy and recommend the adoption to full council.

5. Financial Implications

There would be no financial implication with the introduction of the policy, but it would make the processing of monitory donations simpler without the need for VAT.

6. Equalities Impact

n/a

7. Personnel Implications

The simplification of the benches policy relating to the donation for memorial benches would aid staff.

8. Environmental implications

n/a

9. Consultation

n/a