

Special Expenses Petition to Council on 17 July 2014

In presenting his petition Mr Linton suggested that there was a basis for legal challenge of the Council's decision to apply special expenses. For the record and for avoidance of doubt, the Council refutes Mr Linton's allegations of unlawfulness for the reasons set out below:

1. Mr Linton alleges that the special expenses charge equates to an increase in council tax of 3.6% which exceeds the government guideline of 2% requiring a referendum.

Council response:

The referendum calculations are set out in a statutory return CTR1.

The Council did not exceed the government guideline because the results for Lewes District Council produce a band D tax of £192.48 for 2013/2014 and £192.48 for 2014/2015 which confirms there is no aggregate increase.

The return and guidance notes for the statutory return are at this web address:

<https://www.gov.uk/government/publications/council-tax-requirement-return>

The national calculation is concerned with the aggregate of the Council's General and Special Expenses requirement divided by its taxbase. This determines whether a referendum is required and whether the Council has an entitlement to a Council Tax freeze grant.

This web address provides information on Council Tax levels set by individual councils in 2014/2015. <https://www.gov.uk/government/publications/council-tax-levels-set-by-local-authorities-in-england-2014-to-2015>

Selecting "Lewes" from the drop down boxes in Table 10 and Table 11 at this web address confirms the Council's entitlement for a "freeze grant offer" and confirmation that it has not breached the referendum principles.

2. Mr Linton alleges that the level of management charges which the Council attributes to charitable open space land is excessive and exceeds the level of charge permitted by the Charity Commission.

Council response:

The management charges have been made in accordance with proper accounting practice.

The Council complies with charity accounting requirements and the charity accounts are independently examined by BDO LLP, 55 Baker Street, London. W1E 7EU.

3. Mr Linton alleges that the Council did not take any legal advice on the legality of the application of special expenses.

Council response: The Council has its own in-house lawyers. Council lawyers were satisfied that current legislation permits the application of special expenses.

4. Mr Linton alleges that the Council had insufficient regard to the outcome of its consultation procedure.

Council response: It is acknowledged that the majority of responses for Lewes and Newhaven towns voted against the application of special expenses. However, taken together, these represented less than half of the total responses received – 43.9%. The majority of respondents across the district as a whole favoured the introduction of special expenses for open spaces. There was a weakness in the on-line consultation responses which had to be acknowledged, namely that the responses were not statistically representative. The Council employed a professional consultant in qualitative research to assist it in facilitating resident focus groups.

When a public body such as the Council undertakes a public consultation exercise it is of course required to take into account the results of that consultation in reaching its decision. However, it is very much a matter for the Council's discretion as to how much weight it decides to attach to the consultation results. Clearly, the statistical significance or otherwise of the research is a factor which the Council may properly take into account.

5. Mr Linton alleges maladministration and says that it is apparent from the voting record that some councillors failed to consider their duty to the District as a whole and favoured their own constituencies.

Council response: It is not possible to properly draw any such conclusion from the voting record alone.

6. Mr Linton refers to that part of trust land in Lewes which is rented out to a farmer and alleges that "something is askew" by reason of the lease to the farmer.

Council response:

That part of the trust land which is rented out to a farmer is land which is inadequately drained to provide formal recreation space. The income received is applied directly for the benefit of the remaining trust land. This arrangement has the express approval of the Charity Commission by way of a Scheme dated 2006.

It is a fact that all income raised from the trust land, including for example income derived from concerts held on trust land, is ring-fenced for direct re-investment back into the maintenance and improvement of the trust land.