

Fees and Charges Policy

Updated July 2024

1. Introduction

1.1 Similar to other local authorities, the council is facing financial pressures as a result of reductions in central government funding, rising inflation and increased competition from the private sector for certain services.

1.2 As a result, the council uses its powers to charge for goods and services, issue fixed penalties and recover its costs, to generate income to support investment in services and/or reduce the overall level of expenditure to be met by council taxpayers.

1.3 The council aims to be commercially minded and this also applies to fees and charges, to help ensure that the council is in a better place to meet funding challenges going forward. However, it is necessary to balance this ambition with an awareness of the consequences of charging on individuals, the wider aims of the council itself and the organisations it works with, to ensure that changes do not adversely impact on those who are vulnerable or in financial difficulties.

A corporate approach to commercial activity in terms of setting fees and charges ensures that chargeable services represent best value to the residents of the borough. It supports the focus of the Council Plan and its four key themes:

- 1.4
- People and Communities
 - Growth and Prosperity
 - Place and Climate
 - Innovative and Customer Focused

2. Background

- 2.1 Income received by the council from fees and charges is generated by both statutory and discretionary services. Where fees and charges apply to statutory services these are often set nationally, for example, some planning and licensing fees. Usually these are fixed amounts, but in some instances a 'price range' is set and council's can choose to set their fees within this range.
- 2.2 The remaining income generating services where the council levies fees and charges are of a discretionary nature. Discretionary services are those that an authority has the power to provide but is not obliged to. They include services provided directly to the public in general such as pest control and leisure services as well as charges for the costs incurred by the council (such as legal costs) when entering into planning or highways agreements with specific persons.
- 2.3 Previously published guidance helps to shape the underlying principles for reviewing fees and charges each year. The first of these advised councils to focus attention on charges and addresses the following issues:
- Establish clear principles for charging;
 - Integrate charging into service management and forge links with corporate objectives;
 - Set clear objectives and targets to qualify success in charging e.g. what level of surplus is required or what level of take-up are we hoping to achieve;
 - Build an understanding of users and markets;
 - Improve decision making by taking into account the likely impact of changes to charges on budgets, demand, usage etc.; and
 - Innovate via imaginative use of charging structures.
- 2.4 A further report, which identified how different councils' use their powers to charge for services and draws conclusions that support the earlier publication in that:
- Charging for local services makes a significant contribution to council finances and for district councils charges make the greatest contribution to service delivery;

- Councils use charges to influence individuals' choices and to bring benefits to local communities. Charges can be set to encourage or discourage people to use services and through concessions to pursue local objectives; and
- Councils need to understand better the likely impact of charges on users and on patterns of service use and equality impact assessments can help with this.

2.5 The report recommends, amongst other things, that where there is a subsidy to provide a service, this is transparent as part of the decision making process; that service managers should be aware of both users and non-users of the service being charged for; to engage service users and taxpayers more in decisions about charging levels and that there should be regular debate on charges and charging policy.

2.6 The level of income generated by fees and charges, and in particular projected increases which the council can influence, forms a key part of the council's financial planning and is therefore reflected in the Medium Term Financial Plan.

3. The Council's Policy

3.1 Fees and charges raised should be based on the full cost of the service. A large proportion of fees and charges are restricted by law and can only be set on a cost recovery basis although this will include direct costs of the service provision, overheads and central costs.

3.2 Where the council has the power to charge more than the full cost recovery, consideration should be given to doing so. This may be a useful mechanism for controlling and influencing demand for instance where there is a limited capacity to provide the service. In either case, the impact on the budget should be assessed and if a subsidy arises, this should be declared and ultimately mitigated wherever possible.

3.3 There are three main categories that determine how fees and charges are set and these are as follows:

- Prescribed by legislation
- Member approval
- Officer delegated powers

- 3.4 In order to guide officers, it is useful for them to consider a number of factors when reviewing fees and charges and they include the recommendations set out in section 2 above.
- 3.5 The council has not imposed a blanket 'one size fits all' approach, although as a minimum it is expected that discretionary fees and charges will normally increase with September's CPI each year. This indicator is chosen as it is consistent with central government's approach to uplifting many of their funding streams and normally provides a suitable proxy where changes in total cost are more incremental. A more comprehensive total cost exercise is undertaken every three years in order to ensure that they have kept pace with changing costs, including how the service is delivered which may have impacted on the calculation.
- 3.6 As part of reviewing our fees and charges, we will undertake some market research/benchmarking using nearest neighbours and other family group data, to sense-check the appropriateness of any proposed changes prior to recommending them.
- 3.7 Thought should also be given to the criteria for any concessions or discounted charges and a consistent approach taken across all council services.
- 3.8 Consideration should be given to how changes to fees and charges will affect the delivery of the Council Plan. Other policies and strategies may also have a bearing on the approach taken and so officers should utilise their awareness of these e.g. car parking strategy, to avoid duplication or inadvertent overriding/contradictions of earlier approvals. Similarly, decisions may have been made outside of the consolidated annual fees and charges report and so officers must be mindful of any changes/updates during the year. Finance will normally maintain a record of these but owing to timing differences, officers are asked to notify Finance if they identify any discrepancies.

- 3.9 Officers must ensure that the correct treatment of VAT is applied to the fees and charges they are responsible for. The correct treatment should be agreed with Finance in advance of application. The council currently subscribes to PSTax and they have undertaken a review of the VAT treatment adopted for each of our fees and charges during 2023/24 to ensure that they are up to date. Advice on the correct VAT treatment for new fees and charges can be sought from Finance who will consult with PSTax as needed.
- 3.10 Officers should liaise with their relevant Portfolio Holder to discuss any proposed changes to the Fees and Charges structure, including proposed increases. It is important to also make them aware if no changes are being made and why, as they may have a different view and early engagement can avoid delays later in the process.

4. Equality and Diversity

- 4.1 Under Section 149 of the Equality Act 2010, the Council has a duty when exercising its functions to have 'due regard' to the need to eliminate discrimination and other conduct prohibited under the Act and advance equality of opportunity and foster good relations between those who share a "protected characteristic" and those who do not. This is the public sector equality duty. The protected characteristics are: age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation. The purpose of the duty is to enquire into whether a proposed decision disproportionately affects people with a protected characteristic. In other words, the indirect discriminatory effects of a proposed decision. Due regard is the regard that is appropriate in all the circumstances.
- 4.2 Before the council exercises its fees and charging powers, the impact on individuals or groups of individuals who share a protected characteristic must be carefully considered and properly factored into the decision-making process.

5. Legislation

- 5.1 Under the Localism Act 2011 there is a general power of competence which explicitly gives councils the power to do anything that an individual can do which is not prohibited by other legislation. This activity can include charging (i.e. to recover the costs of providing a discretionary service which the person has agreed to) or can be undertaken for a commercial purpose (i.e. to generate efficiencies, surpluses and profits) through a special purpose trading company. This is what is more commonly known as trading. Charging and trading activities can be aimed at benefiting the Council, the borough or its local communities.
- 5.2 These powers are in addition to similar powers set out in the Local Government Act 2003. The 2003 Act empowers councils to charge for any discretionary services (i.e. services councils have the power to provide but do not have a duty to provide by law) on a cost recovery basis. For example, the Council could decide to provide a new discretionary service, that is an addition to or enhancement of a statutory service, and then charge for it.
- 5.3 The 2011 Act power and the 2003 Act power cannot be used where charging is prohibited or where another specific charging regime applies. Statutory guidance published in 2003 outlines how costs and charges should be established and that guidance remains in force (see: 'General Power for Best Value Authorities to Charge for Discretionary Services', ODPM, 2003). The Council must have regard to the guidance when charging for discretionary services under the 2003 Act.
- 5.4 In particular, the guidance contains useful advice on setting charges. It explains that for each discretionary service for which a charge is made, councils need to secure that, taking one year with another, the income from charges for that service does not exceed the costs of provision. The requirement to take one year with another recognises the practical difficulties council will face in estimating the charges. It establishes the idea of balancing the books over a period of time (not less than 1 year and no more than 3 years). Any over or under recovery that results in a surplus or deficit of income in relation to costs in one period should be addressed by the council when setting its charges for future periods so that over time income equates to costs.
- 5.5 The 2003 Act also enables councils to trade in activities related to their functions on a commercial basis with a view to profit through a company.
- 5.6 Under the Local Authorities (Goods and Services) Act 1970 councils also have powers to enter into agreements with each other and a long list of designated

bodies. These activities are not limited to cost recovery and a profit can be generated from these activities.

- 5.7 In terms of leisure and recreational facilities, section 19 of the Local Government (Miscellaneous Provisions) Act 1976 permits councils to charge for these beyond cost recovery limitations.