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Ask For: Charles Hungwe
Direct Dial: (01843) 577186
Email: charles.hungwe@officer.thanet.gov.uk

CABINET

13 JUNE 2019

A meeting of the Cabinet will be held at **7.00 pm on Thursday, 13 June 2019** in the Council Chamber, Council Offices, Cecil Street, Margate, Kent.

Membership:

Councillor Bayford (Chairman); Councillors: Ashbee, Game, Pugh and D Saunders

SUPPLEMENTARY AGENDA

Item
No

Subject

7. **FEES AND CHARGES DECISION MAKING PROCESS FOR 2020/21** (Pages 3 - 18)



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**FEES AND CHARGES DECISION-MAKING PROCESS
2020-21**

Cabinet	13 June 2019
Report Author	Tim Willis, Deputy Chief Executive & S151 Officer
Portfolio Holder	Cllr Bob Bayford, Leader of Council
Status	For Decision
Classification:	Unrestricted
Key Decision	No
Ward:	All

Executive Summary:

Fees and charges for the forthcoming year are agreed at Council in December, after being considered by Cabinet and Overview & Scrutiny. They form an important part of the budget-setting process. This report proposes a review of the process to set fees and charges.

Recommendation:

Cabinet to consider the review of the fees and charges approval process and to set up a Cabinet Advisory Group on fees and charges, as described in section 4.

CORPORATE IMPLICATIONS

Financial and Value for Money	<p>Income from fees and charges is an essential component of recurrent funding of the council's services. As external funding sources diminish, this income becomes more significant. The council generates in excess of £10 million each year from fees and charges (some of which is ring fenced or restricted as to its use).</p> <p>All things being equal, it is reasonable for fees and charges to increase in line with inflation. However, there are many other factors to consider, one of which is the contribution that fees and charges income makes towards the annual budget, and the extent to which it can fund the loss of external income and the investment in services.</p> <p>Traditionally, fees and charges are agreed at Council in December, ahead of the Council's approval of the budget in February. This is partly to ensure the work involved in preparing the budget is smoothed over several months; but it is mainly to manage risk. The risk is that decisions regarding fees and charges may become the subject of detailed, prolonged and political debate, which can undermine approval of the budget and the strategic view required when setting the budget, which is subject to strict</p>
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	legal deadlines. The intention is always that healthy detailed, political debate can be had earlier in the process, and this report is intended to add to the opportunities for members to understand and discuss fees and charges.	
Legal	The Council has a statutory duty to annually set a balanced General Fund Revenue budget. This further process would not require a change in the existing Policy and Budget Procedure Rules set out in the Constitution.	
Corporate	Fees and charges are an important funding source for the council as well as a cost to service users, many of whom will be council taxpayers. Many fees and charges are governed by legislation and regulation, which control pricing decisions and affect the council's policy on setting fees and charges.	
Equality Act 2010 & Public Sector Equality Duty	Members are reminded of the requirement, under the Public Sector Equality Duty (section 149 of the Equality Act 2010) to have due regard to the aims of the Duty at the time the decision is taken. The aims of the Duty are: (i) eliminate unlawful discrimination, harassment, victimisation and other conduct prohibited by the Act, (ii) advance equality of opportunity between people who share a protected characteristic and people who do not share it, and (iii) foster good relations between people who share a protected characteristic and people who do not share it.	
	Protected characteristics: age, sex, disability, race, sexual orientation, gender reassignment, religion or belief and pregnancy & maternity. Only aim (i) of the Duty applies to Marriage & civil partnership.	
	Please indicate which aim is relevant to the report.	
	Eliminate unlawful discrimination, harassment, victimisation and other conduct prohibited by the Act,	
	Advance equality of opportunity between people who share a protected characteristic and people who do not share it	✓
Foster good relations between people who share a protected characteristic and people who do not share it.		
	Changes to fees and charges can have a disproportionate effect on some groups of customers. This effect can be more significant in respect of charges for services that are difficult or impossible to avoid. These factors, along with a thorough approach to more general customer impact, will figure in the annual review of fees and charges. Every service manager that is responsible for proposing a change is aware of the need to complete a customer impact assessment (incorporating equalities impact).	

CORPORATE PRIORITIES (tick those relevant) ✓	
A clean and welcoming environment	
Promoting inward investment and job creation	
Supporting neighbourhoods	

CORPORATE VALUES (tick those relevant) ✓	
Delivering value for money	✓
Supporting the Workforce	
Promoting open communications	✓

1. Introduction and Background

- 1.1. The process for setting fees and charges for 2019-20 was typical of recent years. The Finance team emailed guidance to service managers in July 2018; service managers drew up proposed new charges in August, which were reviewed by Heads of Service and then Directors in September. This allowed sufficient time for informal consultation with Cabinet members and to make any changes for formal Cabinet.
- 1.2. Cabinet (on 15 November 2018) received a report on proposed fees and charges for the financial year 2019-20. Most charges applied from 1 April 2019. Cabinet recommended that the charges be presented to Council for approval. On 20 November 2018, Finance Budget and Performance Scrutiny Panel received the same Cabinet report and made some recommendations to Cabinet in respect of specific proposed charges. Additionally, Scrutiny recommended that Cabinet “consider whether it was appropriate to set up an all party cabinet advisory group to look at future fees and charges”.
- 1.3. On 6 December Cabinet considered the recommendations from Scrutiny and agreed all but one. Cabinet explicitly agreed “The creation of an all party cabinet advisory group to look at fees and charges applicable from April 2020”. Later the same day, Council met and approved Cabinet’s recommendations.
- 1.4. A broadly similar process, which is in keeping with the council’s constitution, is recommended for 2020-21 fees. Additionally, in the spirit of the recommendation for cross-party review (albeit from the previous administration), this report proposes that fees and charges be examined before Cabinet first views the proposed 2020 fees and charges. This would be for the purpose of enriching the deliberative process and would not supplant the decision-making powers of Cabinet and Council, nor the scrutiny powers of Overview & Scrutiny.

2. Review of fees and charges

- 2.1. As can be seen from the above description of last year’s timetable, the existing process that leads to the setting of fees and charges runs from July to December. The detailed guidance to service managers is issued each year, and is attached as Annex 1.
- 2.2. On paper, there is ample opportunity for members to be involved and ask questions about proposed charges from around September to December. However, it has been the case in the past that some members have been surprised when the charges are implemented on 1 April, accompanied by an adverse public/media reaction if charges have risen. This suggests that at least to some degree, there is still insufficient member engagement on an issue which has the capacity to attract controversy, yet is an important plank of the budget strategy.
- 2.3. The complete schedule of fees and charges is extensive and detailed and is a daunting document to interrogate. It is only reviewed on an annual basis, for the purposes of setting fees and charges. During the year, customers would be informed of specific charges for individual services, they would not need to search through the

whole schedule. But its length does constrain the ability of members to conduct comprehensive and rigorous annual scrutiny of all charges.

- 2.4. The basis of how the fees and charges are calculated will vary. Some services cannot charge more than the cost of providing those services. Some charges are fixed by regulation or by bodies outside of the control of TDC. Other charges are set in tandem with neighbouring authorities, because of a collaborative agreement in respect of shared services.
- 2.5. Some services are statutory in nature and some are non-statutory; this in itself is not particularly relevant when setting charges, as this merely relates to whether or not the council is obligated to provide a service. What is more relevant is if the charge itself is controlled by statute; whether or not a customer has the choice over “buying” the service; if there is a market with multiple suppliers, or if the only choice is to buy from TDC; and if the choice to buy at all is a genuinely discretionary one.
- 2.6. Further considerations are benchmarking against neighbouring districts, who may provide very similar services; comparisons to private sector suppliers, if any; the price elasticity of demand, i.e. whether or not a small price change results in a major impact on demand, or the opposite - almost no matter what the price is, demand remains the same; and trends in absolute levels of income over the years, which can provide intelligence on whether or not the council should, say, invest in a service because it can make money, or if it should just provide a service adequate for the wellbeing of residents, because it loses money.

3. Ideas for review

- 3.1. The review could focus on the process, e.g. consider:
 - Earlier formal involvement of members in the process (in a non-decision making capacity).
 - The role that customers play in revisions to fees and charges.
 - More overt reporting of the findings from equality impact assessments.
 - Structuring fees and charges more in line with their characteristics as illustrated in paragraphs 2.4-2.6.
 - Narrowing the focus of the review, e.g. to those fees and charges that generate the largest income, or involve the highest volume of transactions.
 - Exploring ways of simplifying the structure of charges.
 - Considering the council’s primary objectives when setting fees and charges, e.g. to generate income, cost recovery, “fairness”, simplicity, or to achieve other non-financial corporate objectives - say, larger fines to reduce anti-social behaviour, or lower fees for green waste bins to encourage recycling.
- 3.2. The review could be more practical, by recognising the issues in 3.1, but by working through the existing schedule of fees and charges. This would need to achieve more than to improve the understanding of those people “in the room”, as it would be resource-intensive from a staff point of view. If it focused on learning about common themes and principles and drawing general conclusions through the exploration of specific examples, it could be captured and reported accordingly.
- 3.3. Building on this theme, if fees and charges were reviewed over an extended period, but phased, it would help avoid the exercise becoming overly-burdensome for members and staff. A “deep dive” could involve the relevant service and finance staff

along with the member group, to come up with ideas that could achieve the council's objectives regarding a particular group of fees and charges. An obvious group of charges would be car parking charges, given their high yield, broad customer base and importance to residents and visitors alike. The member group could consider more fundamental changes to fees and charges - e.g. through digital transformation - or by relatively few simple amendments that help improve the customer offer, improve the service and increase income.

4. Creation of the member group

- 4.1. At the Council meeting agreed last December, the plan was, and is, to create a Cabinet Advisory Group to examine fees and charges. For reasons discussed in this report, it is proposed that:
- A. The CAG is chaired by the Cabinet Portfolio Holder for Finance & Estates.
 - B. Cabinet finalises the terms of reference of the CAG after the CAG's first meeting, subject to the parameters below:
 - i. There is an underlying assumption that overall, income yield from fees and charges should, as a minimum, rise with inflation. It would be detrimental from a financial sustainability perspective for the CAG to recommend reducing fees and charges income overall, when other sources of income outside of the control of the council are reducing and the budget needs to be balanced.
 - ii. There will be a rolling review of fees and charges, being mindful that this places an additional burden on members and staff, so the programme will be managed accordingly.
 - iii. The group of fees and charges subject to review by the CAG to inform the 2020-21 charges will be car parking charges.

5. Recommendation

- 5.1. Cabinet to consider the review of the fees and charges approval process and to set up a Cabinet Advisory Group on fees and charges, as described in section 4.

Contact Officer:	Tim Willis, DCX
Reporting to:	Madeline Homer, Chief Executive

Annex List

Annex 1	Guidance to service managers
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Corporate Consultation

Finance	Chris Blundell, Head of Financial Services & Dep S151 Officer
Legal	Tim Howes, Director of Corporate Governance

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Annex 1



Fees and Charges
Policy

Fees and Charges Policy

1. Purpose

- 1.1. This policy establishes corporate principles for charging for services provided by the council. It aims to recognise the competing priorities the council faces when charging residents, businesses and other users for its services, as well as the democratic environment in which the council operates.
- 1.2. This policy will be reviewed at regular intervals to ensure that it continues to meet the council's requirements.
- 1.3. All services must comply with this policy when setting and reviewing charges.

2. Scope & Application

- 2.1. Charges can be statutory or discretionary:
- 2.2. **Statutory charges** - Central Government sets the level of some charges and restricts the extent of charging in other areas. Statutory charges are identified separately in the fees and charges schedule.
- 2.3. **Discretionary charges** - The Policy for discretionary fees and charges is either full recovery of costs or maximisation of income. The council uses discretionary charges where it believes that users should bear the cost of the service and to keep the Council Tax at an acceptable level.
- 2.4. This policy covers all services that can apply charges to external customers including residents, businesses and partner agencies. It excludes:
 - Council tax;
 - Housing rents and service charges; and
 - Fees and charges where the amount is fixed by statute or are otherwise outside the council's control.

3. Principles for Setting Charges

- 3.1. The council has three key principles for setting charges:
- 3.1.1. The council must comply with all legal requirements for setting charges and income generation. Where appropriate, this will override other factors to ensure the council is not exposed to the risk of legal challenge.
 - 3.1.2. The charging arrangements for any service must meet the full cost of providing the service and include sound arrangements for income collection. The full cost of provision includes a share of central costs and a forecast for the effects of inflation.
 - 3.1.3. The appropriateness of charges set may be dependent on the wider aims and context of the service and as a result other aspects, such as the impact on service users, must be considered rather than just financial gain when setting fees and charges.
- 3.2. The council will apply the following key principles in setting fees and charges each financial year.
- Charging decisions will be taken in the context of the council's Priorities as set out in its Corporate Priorities;
 - Access, affordability and elasticity of demand will be considered;
 - Charges will be consistent with the council's Equalities and Diversity Policy e.g. consideration will be given to any disproportionate impact on vulnerable groups and those least able to pay;
 - Where services are provided on a trading basis, charges will be set at the maximum level the market can bare without eroding demand such that the overall financial position of the service offering is weakened;
 - Charges will be benchmarked with comparable service providers and where they are identified as being significantly lower than in other comparable authorities, increases will be fast tracked in order to bring them in line;
 - Any exemptions and concessions on standard charges will be clearly justified. They will only be provided for services where benefits to the recipient groups are clearly evidenced and are consistent with the Corporate Priorities. The council will consider the adoption of a concessions policy as part of the review of fees and charges to help address inequalities within the district. Any approved policy will be included on the council's website; and
 - Enforcement charges will be set at a level proportionate to the nature of the offence and comparable charges in comparable authorities.

- 3.3. Application of these guiding principles aims to ensure that the council's fees and charges are set within a framework of value for money management; whereby financial, performance, access and equity are considered fully and appropriately and decisions taken represent a transparent and balanced approach.

4. Reviewing & Increasing Charges

- 4.1. Inflationary cost increases will be included in the cost of service provision (see section 3 above).
- 4.2. Charges will be reviewed at least annually as part of the budget setting process.
- 4.3. In order to make informed decisions, Directors, Heads of Service and/or Service Managers will ensure that appropriate information on service users, service usage costs and benchmarking is kept and reviewed on an annual basis.
- 4.4. Proposals to introduce or to amend charges will take into account the potential impact on different types of customer groups and service usage.
- 4.5. Where there is no fee for a service that can be charged for or current charges represent less than the full cost of providing the service, the reasons should be reconsidered and justified under this policy as part of the annual review.
- 4.6. Service users and other relevant stakeholders must be informed in advance of all proposals to introduce or to amend charges above inflation or where required by statute. Appropriate vehicles for informing service users should include service advisory groups, service user groups, customer surveys and focus groups.
- 4.7. Consultation with service users and other relevant stakeholders on above inflationary prices increases will be undertaken when required by law and considered in all other cases and prior to any decisions being made.
- 4.8. Care will be exercised in facilitating and interpreting consultation in view of the potential reluctance to support any increases in fees or charges. Emphasis will be placed on demonstrating that fee and charge levels set represent good value for money, considering the quality of the services provided and charge levels applied in other comparable authorities.
- 4.9. Customer Equality Impact Assessments will be carried out to establish whether the Public Sector Equality Duty is engaged in the setting or review of fees and charges.

- 4.10. The Directors, Heads of Service and/or Service Managers will maintain clear records of any charging review with clear evidence justifying decisions and/or recommendations made.

5. New Charges and Trading

- 5.1. The Local Government Act 2003 gives the council power to charge for discretionary services, with some limited exceptions. This may include charges for new and innovative services utilising the power to promote environmental, social and economic well-being under section 2 of the Local Government Act 2000. The income from charges, taking one financial year with another, must not exceed the costs of provision. The council promotes and welcomes the use of these powers.
- 5.2. Services should consider whether they may utilise this power to provide a service that may benefit residents, businesses and other service users, meet the council priorities and generate income.
- 5.3. The council has powers to trade with other prescribed public bodies under the Local Government (Goods & Services) Act 1970 for goods and services and general powers to trade under Local Government Act 2003 Trading allows the council to make a profit but there are some significant restrictions. Where a Director, Head of Service or Service Manager considers a service may be in a position to trade, they will first seek legal and financial advice.
- 5.4. Proposals for new fees and charges or to amend existing ones must be considered within the service and financial planning process or, where necessary, following appropriate consultation with service users and consultation with the portfolio holder for both finance and the service, submitted to the relevant Director for approval as an in-year change via a Decision Notice.

6. Management and Decision Making Framework

- 6.1. Thanet District Council splits its fees and charges between council functions and executive functions in accordance with the The Local Authorities (Functions and Responsibilities) (England) Regulations 2000.
- 6.2. Fees and charges associated with council functions (such as planning fees, licensing fees, election and electoral registration fees) are agreed by Full Council.
- 6.3. Fees and charges associated with Executive functions (such as waste and recycling charges and parking fees) are agreed by Cabinet.

- 6.4. In year changes to fees and charges related to Executive functions are delegated to Directors in consultation with the relevant portfolio holder, as per the council's constitution.
- 6.5. In year changes to fees and charges related to both council and Cabinet functions are delegated to Directors in consultation with the relevant Cabinet portfolio holder.

7. Income Collection & the Council's Credit Management Policy

7.1. It is vital that the council receives the charges that it makes for its services. The following principles will apply to all charges and Heads of Service and/or Service Managers must ensure that all contractual documentation and marketing information is available to support these:

- Wherever possible, customers should be required to pay charges in advance of the service being provided, on entry, or prior to making delivery, to minimise the risk of non-payment and to assist customers in managing their liabilities to the council.
- Multiple payment methods will be made available to the customer, although e-payments and (where appropriate) setting up of direct debits through Thanet Gateway Plus or Contact Centre and will be promoted as the preferred method. In accordance with the council's Anti-Fraud and Corruption Policy Services offering a cash payment option will be underpinned by a robust reconciliation process.
- Where customers fail to pay for fees and charges they will be made liable for the additional costs of enforcement and customers must be made clearly aware of this additional liability.
- A lawful and reasonable refund policy will be adopted and customers made aware of this policy.

8. Charging Policy

Each fee or charge should be identified to one of the categories in the following table;

Charging Policy	Policy Objective
Full Commercial	The council seeks to maximise revenue within an overall objective of generating as large a surplus (or a minimum loss) from this service
Full commercial with discounts	As above, but with discounted concessions being given to enable disadvantaged groups to access the service
Fair Charging	The council seeks to maximise income but subject to a defined policy constraint. This could include a commitment made to potential customers on an appropriate fee structure. Alternatively, a full commercial rate may not be determinable or the council may be a monopoly supplier of services.
Cost Recovery	The council wishes to make the service generally available, but does not wish to allocate its own resources to the service.
Cost recovery with discounts	As above, but the council is prepared to subsidise the service to ensure disadvantaged groups have access to the service
Subsidised	Council policy is to make the service widely accessible, but believe users of the service should make some contribution from their own resources. Could also be due to the adverse impact a cost recovery or commercial charging policy would have on other council services.
Nominal	The council wishes the service to be fully available, but sets a charge to discourage frivolous usage.
Free	Council policy is to make the service fully available
Statutory	Charges are set in line with legal obligations.

In applying the appropriate charging policy, the issues which may need to be considered in setting the level of fee and charge for any particular service are set out below;

Charging Policy	Points for Consideration
Full Commercial	<ul style="list-style-type: none"> • Are the charges high enough for the business to be profitable? If not, consider whether we should be providing this service. • Are competitors charging similar prices? • Do we offer any premium in terms of service levels that customers would be prepared to pay more for? • How would changes in pricing structure affect demand for the service and potentially its profitability? • How does the proposed fee structure fit in with the long-term business plan for this service?
Fair Charging	<ul style="list-style-type: none"> • How do our charges compare to other providers of similar services? • Has the loss of income from not charging on a full commercial basis been evaluated? • Is the policy constraint justifying this charging policy still valid?
Cost Recovery	<ul style="list-style-type: none"> • Do charges recover the full costs, including overheads, capital charges, recharges and cost of collection? • Is it possible to charge on a full commercial basis and if so has the loss of income from not charging on a full commercial basis been evaluated? • Are members aware of the effect on demand for this service from this charging policy? • What would be the effect of changing to a different policy e.g. subsidised?
Subsidised	<ul style="list-style-type: none"> • Has the cost of the subsidy been evaluated? • What has been the impact on demand and on service levels from adopting this approach?
Nominal	<ul style="list-style-type: none"> • Does this approach fit in with the requirements of other funding streams i.e. grants?
Free	<ul style="list-style-type: none"> • Is this approach legally required? • Is there a problem of frivolous use of the service?
Statutory	<ul style="list-style-type: none"> • Are charges in line with statutory requirements? • Are they set at the maximum permitted levels?

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Annex 1

Policy review

This policy will be reviewed every two years or earlier at the request of the Corporate Management Team, or in light of any changes to legislation or national guidance.

Document Type	Policy
Revision No.	Version 1.0
Release Date	July 2018
Review Date	July 2020
Owner	Head of Financial and Procurement Services

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