Public

Agenda Item No 6(c)

DERBYSHIRE COUNTY COUNCIL

CABINET

20 December 2018

Report of the Director of Finance & ICT

CORPORATE CHARGING POLICY

(STRATEGIC LEADERSHIP, CULTURE AND TOURISM)

1 Purpose of the Report

To note and approve the Council's updated Corporate Charging Policy.

2 Information and Analysis

The Council is faced with severe financial pressures as funding from more established sources fails to meet the cost of delivering services. As a consequence, maximising alternative sources of income is crucial if Council Tax is to remain at an acceptable level and service reductions are to be minimised.

The Local Government Act 2003 provides powers for local authorities to charge for discretionary services and enables full cost recovery. The Council's general approach to charging for services offered on a discretionary basis is always to:

- make a charge, but only where the assessed income from charging is greater than the cost of charging, and
- use a full cost recovery approach as the basis of charging.

Where charges for services are not made, or a full cost recovery approach is not used, then this should be justified and documented. This is particularly important where the Council is competing with the private sector, as provision of services in this instance should not be subsidised.

The Corporate Charging Policy (Policy), therefore, documents this approach and ensures that, where appropriate and fair, income is maximised across the Council. It also gives officers clear guidelines regarding when and how much to charge for services.

The Council already raises income of over £59m from fees and charges, excluding Residential Care Home fees. Increasing income through charging will help to reduce the funding gap expected in future years as a result of the slowdown in public sector spending.

The Policy clarifies what the Council intends to achieve through the use of consistent and rationally applied charging powers and allows a more transparent debate about the issues, especially with the background of Five Year Financial Plan efficiencies and savings to be made.

The Policy includes sections on when to charge, how to set the charge, when to consider charging at less than full cost, how to set new charges and review existing charges, how to charge and collect payment and how to use any surplus income. The Annex to the Policy contains practical guidance, based on CIPFA guidance.

In addition, a framework is currently being developed which sets out best practice in respect of monitoring income from fees and charges and measuring their financial performance in the context of service provision and the service costs to which they relate.

The updated Policy is attached at Appendix One.

3 Financial Considerations

As set out above.

4 Legal Considerations

The Policy emphasises the need for legal advice to be obtained when new charges or revisions to existing charges are being considered.

5 Other Considerations

In preparing this report the relevance of the following factors has been considered: - human resources, social value, prevention of crime and disorder, equality and diversity, environmental, health, property and transport considerations.

6 Background Papers

Papers held in Technical Section, Finance & ICT, Room 137.

7 Key Decision?

No.

8 Is it necessary to waive the call-in period?

No.

9 Officer's Recommendation

That Cabinet approves the updated Corporate Charging Policy.

PETER HANDFORD

Director of Finance & ICT

Corporate Charging Policy

DERBYSHIRE
County Council

Version History			
Version	**Date**	**Detail**	**Author**
1.0	10 05 2011	Council's Corporate Charging Policy created and approved for use by Cabinet on 10 May 2011	E Scriven
2.0	08 08 2016	Version control and information classification added	E Scriven
3.0	01 08 2018	Update to approval limits and how charges should be set	S Holmes
3.1	10 10 2018	Minor amendments	CDW
3.2	01 11 2018	Added paragraph on commercial trading. Update to definition of full cost recovery	S Holmes
3.3	14 11 2018	Formatting for Cabinet Report	E Scriven

This document has been prepared using the following ISO27001:2013 standard controls as reference:	
ISO Control	**Description**
A.8.2	Information classification
A.7.2.2	Information security awareness, education and training
A.18.1.1	Identification of applicable legislation and contractual requirements
A.18.1.3	Protection of records
A.18.1.4	Privacy and protection of personally identifiable information

Background

This policy has been created to ensure that, where appropriate, fair charges are made for services across the Council. This policy also gives officers information regarding the considerations which are to be taken into account before proposing to charge or alter a charge for a service.

Please note, however, that proposals for new charges or revisions to existing charges must first be sent for approval by the Departmental Head of Finance to Cabinet/Cabinet Member/Strategic Director and Chief Financial Officer, subject to legal advice.

When to charge

Charges should be considered wherever it is legally and practically possible. There are certain areas where it has long been possible for charges to be made and where express legal powers have existed, for example the power to charge for planning applications. The Local Government Act 2003 (the 2003 Act) provides powers for local authorities to charge for discretionary services (including services provided pursuant to the Local Government Act 2000 'well-being' power) and enables full cost recovery.

This power does not apply to services where charges are prescribed nationally by central government, or where legislation specifically prohibits charging for that particular service.

The key features of the 2003 Act's charging powers are that:

- the authority must have a discretionary power to provide the service;
- use of the charging power is at the discretion of each individual authority and they may, if they wish, provide discretionary services free of charge to service users;
- the powers do not override legislation prohibiting charges and should not be used, for example, in breach of the Competition Acts relating to unfair trading practices;
- income from charges must not exceed the costs of provision of the service, taking one financial year with another;
- the cost of provision of the service includes overheads, and should be calculated over a period of not less than 1 year and no more than 3 years;
- each authority is free to decide which methodology it uses for calculating the cost of service provision, and guidance on the 2003 Act can be found in the CIPFA Service Reporting Accounting Code of Practice and may provide a useful starting point;
- the authority must calculate the cost of provision separately in relation to each kind of service;

- the recipient of a discretionary service must have agreed to its provision and to then pay for it via a charge;
- different people can be charged different amounts, discounts being allowed for prioritised groups (for example the disabled, unemployed or those in receipt of benefit); and
- the secretary of state retains a reserve power to disallow the new charging power, for example where unfair competition or commercial rates of return occur or where such charges are deemed not to be in the public interest.

It is important to consider the following when assessing any charge:

- the legal basis on which the charge is made;
- the reason for charging;
- the impact of charging on service users;
- equalities and environmental impacts;
- effects of charges on demand and on total income;
- cost of collecting the charge;
- the relationship of the service to Council objectives and the Council Plan; and
- the wider market and what competitors or neighbouring authorities are currently charging.

How should the charge be set?

The first step is to consider whether there is a legal restriction on the amount that can be charged. If there is, then the statutory requirements must be followed.

For discretionary services the Council can make a reasonable charge that recovers (but does not exceed) the full cost of delivery. Please see below a list of reasons why the Council may decide under certain circumstances to set the charge at a rate which would not recover the full cost of delivery.

When creating a charge for any service, the full cost of providing the service, inclusive of overheads and capital costs should be calculated.

Consideration must be made as to whether the service could be provided by a private entity, in which case it must levy a market based charge, so as not to distort the market. VAT is likely to apply.

Where it is cost effective to do so, departments should collect and use information on who is and is not using services and how service users and non-users respond to changes in service charges.

When to consider charging less than full cost

Reasons for not recovering the full cost for service delivery may include:

- the service users could not afford the full cost of the service and therefore a concessionary/reduced charge may be applied, in order that the service remains inclusive;
- charging full cost may deter take-up of the service and subject the Council to greater charges later down the line, for example, in community safety or preventative health care services;
- demand for the service is reactive to price, any price increase could lead to a fall in demand and consequently reduced income and/or higher unit cost;
- charging would be detrimental to other Council objectives. For example, the library service may decide not to charge for internet access, in order to promote social inclusion.

Setting of new charges and review of existing charges

Proposals for new charges, or revisions to existing charges, should first be agreed by departmental management teams. The following approvals are required prior to the implementation of new charges or a revision to existing charging arrangements:

Anticipated New Income, or Change in Income per Annum	Approval
Up to £25,000	Strategic Director in conjunction with the Chief Financial Officer and the Director of Legal Services
Over £25,000 up to £250,000	Cabinet Member
Over £250,000	Cabinet

Before approval is sought, the proposal must first be presented as a Business Case for review by the Chief Financial Officer and the Director of Legal Services. The template Business Case within the Project Management toolkit should be used. This template can be found at:
http://dnet/resources/toolkits/practical_project_management_approach/the_toolkit/templates/business_case/default.asp

In order to ensure that charging levels are maintained and to assist in the budget planning process, charges should always be subject to an annual review, unless it is uneconomic to do so. It may be uneconomic where, for instance, there is a legal requirement to publish every time a change is made and the cost of such advertisement makes an annual review prohibitive. In such cases a review should take place at least every two years.

When reviewing a charge it should be noted that it is not satisfactory to simply add an inflationary increase to the previous year's charge as some cost components may alter by a different rate than others. Instead, the unit cost of the service should be calculated as if it were a new charge and should reflect the actual cost of service provision.

How to charge and collect payment

When charging for goods or services, an important consideration is how to secure and guarantee payment for those goods/services. Providing goods and services before securing payment provides the potential to increase the value of debt outstanding and consequently places the Council at risk in terms of bad debt and potential write-off of that debt. Wherever possible, arrangements should be made for the income to be collected in advance of, or at the point of, delivery for those goods or services. Only where it is considered unreasonable to demand payment in advance, or at the point of delivery, should the income be collected by raising a formal debtor's account.

How will any surplus income be used?

Income derived from charging for a service (or group of services, provided that they are all the same kind of services) must be used to pay for the cost of providing that service or group of services. Where there is a surplus or deficit, such surplus or deficit should be taken into account when setting charges for the following period so that, taking one year with another, income does not exceed costs.

Commercial trading

Trading is defined as the provision of goods or services in return for a payment. Section 95 of the 2003 Act and Section 4 of the Localism Act 2011 enables an authority to trade in activities where they are not already under a statutory duty to provide that function and where there is no other explicit power, under which they can trade, given by other legislation. Where an authority's primary motivation for trading in an activity is to make a profit, it may do so only by establishing a commercial trading company. Where the Council's motivation to trade is for social or community benefit, there is no need to set up a separate trading company, even though such activities are likely to generate a financial return. Generally speaking, Section 95 powers should be used where the Council wishes to act like the private sector and most of its customers will be private sector customers. Under the Local Authorities (Best Value Authorities) (Power to Trade) (England) Order 2009 the Council must also approve a business case before it sets up the company and must not provide subsidy to the trading company.

Further practical guidance

The annex to this charging policy sets out further practical guidance.

The aim is to ensure that a consistent set of charging principles is applied to all our charges. Some of the issues surrounding charging policies are listed and these should be considered when determining the charges.

In addition, if the scale of the proposed income changes is significant, a business planning approach will be required to avoid any unnecessary financial risks. Business planning requirements for discretionary service income are also covered.

Where there is discretion over charging levels there are issues to be considered when determining the prices and guidance on these is also given in the annex.

Appendix - Practical Guidance

Charging policies

The aim of this charging policy is to ensure that a consistent set of charging principles is applied to all our charges.

Some of the issues surrounding charging policies are set out below:

Area	Comments
Concessions	Generally regarded by politicians as an important consideration. For many services there is a statutory concession for clients or families in receipt of specified benefits. Where there is no statutory right to a concession, a range of factors may be considered in framing a policy, including: • Which services should offer charging concessions? • Should there be different concession bands (e.g. half price, free service, and so on)? • Are there clearly defined groups linked to the different concession bands? • Should services be grouped into categories to determine whether concessions are offered at all (e.g. civic entertainment – no concessions; public health matter such as pest control – full application of concessions)? • Standards for proof of entitlement make things easier for clients (e.g. what counts as proof that somebody is a local resident and so on).
Age bands	Subject to obtaining prior legal advice, children and perhaps older people may be priced differentially to other service users. In that case, the relevant age bands need to be defined. Eligibility for some services is determined by age (for example, a young person’s service generally is provided up to age 25). Effective controls to ensure service users are of the correct age may reduce the cost of some discretionary services. If concessions are made for older people, the Council will need to show equal treatment to both men and women in setting the threshold age.
Non-residents	In some service areas, non-residents may be subject to higher charges than residents (a principle which may or may not be capable of practical application, depending on the service). It may also be decided that some services are for residents only, especially if they are subsidised. Sometimes exceptions may be made for non-resident Council employees (usually charged at a premium rate).
Donations to charity	Some local authorities donate some or all of the income from certain services to charity (e.g. charges to owners for recovering stray dogs donated to an animal charity).

Area	Comments
Charges to business	Many of the Council's services are provided to the whole spectrum of domestic, public sector and commercial customers (e.g. pest control). It may therefore be decided to operate more than one charging band accordingly.
Other public agencies	Other public agencies are often charged at a lower rate than commercial clients by other local authorities and this could be considered.
Council staff	Council staff may be subsidised in the interests of recruitment or retention. Alternatively, Council staff may be given access to services aimed at residents only, but be called upon to pay a premium rate.
Family income	It should be considered whether families with total income below an agreed threshold receive discounted services.
Prompt payment discounts	Prompt Payment Discounts can be usefully applied to penalty notices - the lost income more than outweighs the administrative cost of collection. For some car parking penalties there is a statutory entitlement to such a discount.
Payment in advance discounts	Authorities are entitled to add an invoicing fee (£30 or more probably) for services not paid in advance (e.g. tenants' rechargeable repairs, such as lost keys).
Non-digital records	Many documents are downloadable for free. However, for archive copies (e.g. of planning decisions) a charge may be made.
Ease of access to charging information	It must be easy for service users to find out about fees and charges. If this information is easily accessible on the website, it can save the considerable cost of fielding telephone enquiries.
Area profile	The degree to which charging policies reflect the level of social deprivation in the area should be considered. An equalities impact assessment may be considered appropriate for any major change in charges. The Council may wish to consider whether the charging policy promotes a thriving third (voluntary/charity) sector (national indicator 7 for local area agreements).

Business planning for major new income sources

If the scale of the proposed income changes is significant, a business planning approach will be required to avoid unnecessary financial risks. The table below sets out some business planning requirements for discretionary service income.

Area	Comments
Necessity	Most authorities practice the discipline of business planning. However, the extent of this varies considerably. Some authorities limit this activity to whole-service business plans, while other authorities expect each of hundreds of business units to produce an annual business plan. Some of the main purposes of a business plan are: • to set out in some detail the scope and operation of a new activity (including financial plans) – this enables an informed decision to be made before going ahead; and • as a reference point for performance monitoring.
Format	It is useful to work from a corporate standard business plan format. This saves a lot of time, for example in devising a plan structure. A standard mini business plan format, especially for discretionary income, would be useful. The reason for this is that issues that apply for whole service or business unit plans may not be relevant to discretionary income proposals (e.g. contribution to best value performance indicators).
Key elements	**Risk management**, including assessing and proposals to control risk. This is an important element for any income source, and especially so for a new income source. **Analysis of the market** for the service. This could be in the form of a SWOT (strengths, weaknesses, opportunities, threats) analysis. **The demand on budgets**. Often this will need to include a careful analysis of whether the new source is truly self funding.

Pricing services

Where there is discretion over charging levels, the table below sets out some issues to consider when determining the prices.

Area	Comments
Prioritising major income areas	There are many perspectives and techniques for pricing services. Given the many demands on time, evaluation of pricing approaches should be commensurate with the income generated. If a strategic approach to charging is in place, a rolling programme of reviews may be adopted. An in-depth review of a particular area can then hold good for the next few years. Attention moves on to other areas in the next financial year.
Full cost recovery	If it is intended to recover the full cost of a service, it should mean just that. An appropriate allowance should be made for management and overheads, including the corporate and democratic centre, where this is not produced automatically by accounting systems.

Area	Comments
Impact on service demand	Unsophisticated calculations that ignore the relationship of price and demand can prove misleading in some service areas. This is particularly so where there are commercial providers operating in competition (e.g. trade waste). Demand for services may change significantly due to a whole range of other factors, ranging from weather, to the national economic situation, through to local circumstances such as the closure of a major local employer.
Administrative costs – changing prices	The cost of changing charges can be considerable. This may include: • consulting users (sometimes a statutory requirement); • publicising the changes; and • new stationery (e.g. no service leaflets with old charge rates). The cost should be factored in to any financial evaluation.
Administrative costs - income collection methods	Some authorities have studied in detail the cost of administrative processes. These may be surprisingly high. For example, the administrative cost of receiving an application and issuing a permit is often higher than the permit fee. Similarly, the all-in cost of one or more site visits to inspect something may be considerable. Any income review should comment on ways to collect charges more efficiently including: • internet services; and • systems that automatically generate the standard terms needed at different stages of providing a service and collecting the income.
Benchmarking	This remains a powerful technique. To do so for charges demands care and patience, so the comments in the first row of this table (prioritising major income areas) apply. Some factors to consider are: • Much may depend on the history of charging at individual authorities (for example, if an authority has only just started charging for a service, the fees are not likely to be comparable with those of an authority that has effectively practiced full cost recovery for some years). • A table of different authorities' charges may be misleading unless the service provided is reasonably consistent at each (for example, family membership of a run-down 1970s leisure centre compared to family membership of a brand-new leisure centre with excellent modern facilities). • Almost as worthwhile as actual charge levels are ideas on service packaging (e.g. swim plus free use of crèche for two hours), new services that can be charged for, how prices are calculated and similar.

Area	Comments
Contractor services	Many services where there is charging discretion are operated by an external contractor (ranging from a PFI contractor or joint service with other authorities through to the operation of a leisure centre). How to deal with this situation will need to be carefully considered, both in setting up the contract and throughout its duration: • The ability to generate additional income will be attractive to commercial contractors. Excessive regulation of charges by the local authority may be reflected in higher contract costs. • Contracts may provide control over base service prices (e.g. a swim at a leisure centre) but not over other services (fencing lessons, use of the climbing wall and so on).
Insurance	It is important to ensure there are appropriate insurance arrangements in place when planning new activities.

Source

CIPFA Guidance