

Wiltshire Council

Cabinet

11 February 2014

Subject: Wiltshire Council's Policy on Fees, Charges and Concessions

Cabinet Members: Councillor Richard Tonge - Cabinet Member for Finance, Performance and Risk

Key Decision: Yes

EXECUTIVE SUMMARY

On the formation of Wiltshire Council different fees, charges and concessionary policies were taken on from the former District Councils.. The attached policy now seeks to provide for an approach to the setting of fees, charges and concessions across the County.

The key changes are to ensure that the setting of fees and charges is linked to deliver the outcomes within the Council's Business Plan and to seek in the first instance to recover full cost. Where concessions are applied it should be only where it is proven that the Business Plan outcomes will be improved. Consideration must be given to factors such as market competition and demand, and all fees should be reviewed annually in line with the policy.

PROPOSAL

Cabinet accept the Policy and recommend it to Council for adoption.

Reasons for Proposal

To enable Council to:

- Maintain a consistent approach to setting its fees and charges.
- Deliver the outcomes of its Business Plan through effective pricing, subsidising those areas of strategic need.
- Recover costs and contribute to the medium term financial plan.

Michael Hudson
Associate Director, Finance and Section 151 Officer

Wiltshire Council

Cabinet

11 February 2014

Subject: Wiltshire Council's Policy on Fees, Charges and Concessions

Cabinet Members: Councillor Richard Tonge - Cabinet Member for Finance, Performance and Risk

Key Decision: Yes

1. Purpose of Report

1. On the formation of Wiltshire Council different fees, charges and concessionary policies were taken on from the former District Councils. The attached policy now seeks to provide for an approach to the setting of fees, charges and concessions across the County.

2. Relevance to the Council's Business Plan

- 2.1 The Policy supports the Council's principle that we are efficient and provide good value for money for our residents. The policy also requires that in setting fees and charges, and in particular concessions there should be demonstrable evidence to show how levels of charges or concessions support the delivery of the Council's Business Plan outcomes.

3. Background

- 3.1 The Council collects a number of mandatory charges, but also has the discretion under statute to collect charges for discretionary services. Effective charging strategies can play a key role in the delivery of corporate priorities. For instance the creative use of concessions can encourage take-up by priority groups or demand may be managed by particular levels of charging.
- 3.2 The Council usually sets its fees and charges as part of the budget setting process each February, although there are some exceptions. There are few prescriptions over the timing of changes to fees. The common practice inherited from the former District Councils was for each service area to decide on its own fees and charges structure. Whilst there was reference to certain criteria in former policies these were not consistent across the Districts and resulted in wide variations and subsidies. Work has been carried out on these over the last four years. Now the majority of that work is complete it is proposed that the Council adopt the attached Policy..

4. Main Considerations for the Council

4.1 The Council is asked to appraise the policy to ensure that it supports the Business Plan and that the direction will support the Financial Plan. The draft Policy is attached at Appendix 1. It is not intended that the policy applies to the fees and charges initially set by the 2014/15 budget process, rather that it is applied going forward. That does not mean fees and charges could not be amended during 2014/15 as a result of a review of the current charges against the principles set out in the draft policy.

4.2 The key aspects of the Policy are set out at Sections 4 and 6, and in summary are:

- In setting levels of fees and charges members need to have had consideration of key factors such as the demand, competition, impact on outcomes and equalities.
- The default position should be to recover all costs. Concessions should be clearly linked to the delivery of improved outcomes within the Council's Business Plan.
- All fees and charges should be subject to a minimum of an annual review.
- Concessions should be applied with consistent principles across Council.

4.3 It is not intended that the policy applies to certain commercial areas such as industrial rents. This is due to the complexity of individual rent agreements based on ongoing economic assessments and consideration of other factors such as NNDR relief. Traded services to schools are also excluded from this policy due to the need to engage Schools Forum. However, the principles of setting fees that contribute to the Council's Business Plan objectives, seek in the first instance full cost recovery and are reviewed every year should still apply in these areas.

5. Options Considered

5.1 The Council could not charge for any discretionary services. This would result in the loss of around £19 million of income and is not considered affordable. It could also maintain the existing approach of setting fees individually, but this raises concerns over equity of practice and the ability to link the setting of fees, charges and concessions to support the delivery of the Business Plan outcomes. As such the Policy attached is the supported option.

6. Safeguarding Implications

- 6.1 The Policy acknowledges and draws out the statutory requirements around charging for children's services and requires any setting of fees, charges and concessions to do so with regard to the Business Plan objectives.

7. Public Health Implications

- 7.1 There are clear statutory requirements around the charging for health care which must be followed in the setting or application of any fees.

8. Environmental and Climate Change Considerations

- 8.1 The policy has been developed to support stronger and more resilient communities in Wiltshire.

9. Equalities Impact of the Proposal

- 9.1 In order for the Council to fulfil its legal requirements under the Public Sector Equality Duty, the Policy clearly states that individual Equality Impact Assessments will be done for each review of a fee, charge or concession. These will be made available to all Councillors during the decision making process so that the full equality implications of proposals are understood, inform final decisions and due regard is paid to the Equality Duty.

10. Risk Assessment

- 10.1 There is a risk of the fairness of fees, charges and concessions being challenged. The policy requires equality impact assessments and consistent application of concessions to be applied across the council to help mitigate this risk.
- 10.2 There is a risk that if levels of fees fail to recover costs and result in a lower collection rate than budgeted for this will result in a budget pressure. The policy provides for consideration of these factors to be explored and assessed prior to setting any fees, charges or concessions. It also requires reference to markets and competition.

11. Financial Implications

- 10.1 The Medium Term Financial Plan contains an assumption that certain fees and charges will increase in line with predicted retail price index. If they do not rise this will have an impact on the Financial Plan.

Conclusions

11.1 The Policy will provide a consistent approach across the council to all aspects of the setting of fees, charges and concessions. It will promote greater transparency and support the Business and Financial planning process

Michael Hudson
Associate Director, Finance and S151 Officer

Report Author: Michael Hudson - Director of Finance
michael.hudson@wiltshire.gov.uk; 01225 713601

Date of report: 28th January 2014

Background Papers:

2014/15 Financial Plan
Business Plan

Appendices

Appendix 1 – Wiltshire Council Draft Fees, Charges and Concessions Policy

Wiltshire Council Draft Fees, Charges and Concessions Policy

1. Introduction

Under the provisions of the Local Government Act 2003, in particular Section 93, the Authority is able to levy fees and charges for the discretionary services it provides providing no profit is made taking one financial year with another.

Effective charging strategies can play a key role in the delivery of corporate priorities. For instance the creative use of concessions can encourage take-up by priority groups or demand may be managed by particular levels of charging.

In addition, the income obtained from such charges represents an important element of the Council's funding stream and therefore has important implications for the Medium-term Financial Plan and therefore the delivery of all local services.

2. Policy Aims and Objectives

This Policy is designed to ensure:

- That a structured, corporate approach to the review and increase of fees and charges is carried out throughout the Authority in accordance with the principles of Best Value.
- That the charges made for discretionary fees are consistent with and contribute towards the achievement of the Council's agreed aims and objectives.
- That opportunities for charging are identified and considered at least annually by service areas.
- That, unless there has been a policy decision overriding this policy, that the Council recovers the full cost of providing the service including direct costs, indirect costs and overheads.

3. **Scope**

- 1) All Heads of Service and their staff are expected to adhere to the principles and procedures outlined within this Policy in formulating Service Delivery Plans and charging strategies.
- 2) This Policy does not cover the setting or concession of fees in relation to areas such as Commercial rents (prescribed rent reviews, market factors, turnover, etc.), neither does this policy offer specific guidance regarding traded services which are currently being reviewed. These services include charging schools for financial support and the provision of payroll services to external bodies and require School Forum sign off.
- 3) This Policy shall apply only to discretionary fees, not those of a mandatory nature where the level of fees is set by statute.
- 4) Commercial rents are negotiated between the Council and tenants based on the individual economic factors and circumstances relating to the particular property.
- 5) NNDR charges are set nationally although there is scope for local discretionary relief as set out in a paper of 7 July 2010: Non-Domestic Rates: Relief, Reduction and Avoidance.
- 6) Section 20(4) of the Children Act 1989 empowers local authorities to provide accommodation for any child within their area (even though a person who has parental responsibility for him/her is able to provide him/her with accommodation) if they consider that to do so would safeguard or promote the child's welfare. However, a key feature of this provision is that it cannot occur if any person with parental responsibility objects, therefore it is "voluntary". It is important to note that this does not include any aspect of respite provision. Where accommodation is provided under section 20 of the Children Act 1989 then Schedule 2 requires local authorities (subject to prescribed exceptions) to consider whether they should recover contributions towards the child's maintenance from any person liable to contribute. The costs of a child's maintenance include the costs of accommodation. If a child is under 16, it is the parents who are liable to contribute, unless they are in receipt of certain welfare benefits.
- 7) With regard to Adult Care the charges relate to residential and non-residential support:-
 - Residential Care - Is generally provided under Section 21 of the National Assistance Act 1948 and section 22 of that Act states that an individual is required to meet the full cost of their residential care. If the resident is unable to pay the full cost, they are required to satisfy the local authority that they do not have the means to do so. If this is the case the Council should undertake a financial assessment to determine what contribution they can make under 'The National Assistance (Assessment of Resources) Regulations 1992'. The Dept of Health issues annual guidelines known as the 'Charging for Residential Accommodation Guide (CRAG) in support of these regulations that set out the detail of how the financial assessment should be undertaken.

- Non Residential Care – is generally provided under section 29 of the National Assistance Act 1948 and section 17 of the Health and Social Services and Social Security Adjudications Act 1983. This gives Councils discretionary power to charge adult recipients of these services. This section indicates that councils may recover such charges as they consider reasonable. Should a council decide to exercise that discretion and charge adult care users it should follow guidance issued by the Dept of Health under section 7 of the Local Authority Social Services Act 1970 known as 'Fairer Charging Policies for Home Care and other non-residential Social Services' originally issued in Sept 2003 and updated from time to time

4. Principles of Charging

- 1) Councils are not compelled to charge for discretionary services, so prior to the introduction of a charge, members should consider:
 - the social objective(s) to be achieved and how this links with the current Council aims and objectives.
 - how to ensure that fees and charges introduced are fair and equitable to all based on the appropriate Equality Impact Assessments.
 - the market for the service, including other existing local providers:
 - benchmarking of fees in other parts of the County, region and nationally;
 - a general principle of a consistent, charge including services provided by contractors on behalf of the Council.
 - the level of demand for that service and how pricing may affect that demand, with users being consulted where possible; and
 - Concessionary policy in other service areas that may impact on another charge.
- 2) Fees and Charges levied should aim at recovering the full cost of the service being provided except where:
 - This is specifically prevented or restricted by legislation, such as parking income which is ringfenced to fund transport related costs or:
 - An alternative charging policy, e.g. concessionary fees, aimed at meeting wider Council objectives has been expressly approved by members after subsidisation is both recognised and recorded.
- 3) The default position is that options for charging should be considered for all discretionary fees at a level which recovers the full cost of services.

- 4) Where a decision is taken to set charges at a level below full cost, the reasons for this and extent of any subsidy should be fully stated. Concessions are targeted discounts aimed at specific groups of users and must be approved by members, in line with the Council's specified aims and objectives and must take account of any other legal restrictions which may apply, as discussed further at Section 6 of this Policy. There may be instances where services are subsidised by the Council, concessions are allowed for specific groups and further discounts are offered to counter other market forces.
- 5) Decisions to change existing discretionary fees and charges should be made taking cognisance of competition in the same markets, for example in leisure services and building control, whilst having regard to the Council's Policies and objectives. The legislation offers scope for differential charging, enabling service areas to charge different groups different rates. This provision may be used to encourage optimal take-up of services and/or the achievement of corporate aims and objectives. In setting differential rates, other potential legal issues should be considered.
- 6) All fees and charges should be subject to a minimum of an annual review, unless there is evidence to suggest otherwise that is agreed with members. The timing of reviews should be linked to market forces, national changes, seasonal changes, etc. relating to the particular service.
- 7) The following Table outlines a range of charging options that could be adopted, depending upon the policy objective to be achieved.

Charging option	Policy Objective and illustrative example
Fees limited by competition with the private sector.	The Council seeks to maximise income within an overall objective of generating a surplus (or a minimum loss) from this part of the service. It would be necessary to ensure that this approach is compatible with legislative requirements.
Fees limited by competition with the private sector, with discounts	As above, but with discounted concessions being given to enable disadvantaged groups to access the service. Such concessions are set out at Section 6 of this Policy. Discounts may be offered to encourage early settlement of fees or charges levied.
Full Cost Recovery	The Council wishes to make the service generally available, but does not wish to allocate its own cash resources to the service. The default position that Wiltshire Council is aiming to achieve under this policy.
Full Cost Recovery with discounts	As above, but the Council is prepared to subsidise the service to some extent to ensure that disadvantaged groups have access to the service.. Such concessions are set out at Section 6 of this Policy. Discounts may be offered to encourage early settlement of fees or charges levied.
Subsidised	Council policy is to make the service widely accessible, but believe users of the service should make some contribution from their own resources, subject to concessions outlined in Section 6 of this Policy.
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 as users cannot be easily identified or charged. I don't think we have any!
Statutory	Charges are set in line with legal obligations. e.g. penalty charge notices for parking infringements.

5. Costing and pricing of services

For each area of service activity, the Authority must be able to demonstrate that charges levied do not exceed actual costs taking one year with another. The legislation however, is not prescriptive in its definition of what constitutes a 'service area' so it may be reasonable/appropriate to group similar activities within a service area together for the purposes of applying this principle. When services are pricing new services or reviewing existing charges, they should seek finance assistance in preparing and validating any proposed charges.

6. Concessions

- 1) The Audit Commission has defined a concession as any service for which a local authority has discretion to make a charge and in doing so sets that charge below the full cost of service provision. This is thus a Council subsidisation and should be referred to as such.
- 2) This policy covers those fees and charges fixed by the Council which are applied to specific groups of people / organisations and which are levied at a lower rate than the standard fee or charge for particular services.
- 3) It should also be recognised that not all services for which the Council can make a concession are included in this policy, e.g. Commercial rents, where there are separate economic policies in place for businesses.
- 4) Wiltshire Council is committed to ensuring consistency and equity in its approach to how it charges individual customers and community groups for discretionary services and goods that are provided in its name.
- 5) Wiltshire Council is also committed to ensuring that discretionary charging practice supports the Council's wider policy objectives and that it ensures that any concessions offered to individual customers and groups are firmly based on the ability to pay.
- 6) In considering concessionary schemes it is important to:
 - Quantify the cost of the concession, including administration and lost income, and assess whether it is possible to recover that cost from charges to other users, from within the service or from general Council resources.
 - Ensure that an Equality Impact Assessment has been carried out and therefore that concessions are consistently applied.
 - Review the extent to which concessions are meeting the intended aim.
- 7) Currently, individual services set their own discretionary discounts. In future, the Council may opt to set standard concessionary percentages across all services levying fees and charges.

7. Timing of setting Fees and Charges

- 1) Normally, setting the rates of discretionary fees and charges are considered as part of the budget setting process resulting in formal approval by Council in February each year. The majority of revised fees and charges therefore come into effect as from 1 April of that year.
- 2) Some fees and charges take effect throughout the year. For example, some of the fees and charges relate to the provision of Children's Services or services provided for families where the charge is more appropriately related to the schools calendar. In these cases, the revised charges are brought in for the start of the new educational year.
- 3) There may be other cases for introducing or revising charges at a different time, for example where a fee or charge includes payments to a contractor and the contract renewal date does not coincide with a revising of fees and charges within the normal budget setting and approval cycle.