COUNCIL

FEES AND CHARGES POLICY

Report of Leader of Oldham Council and the Cabinet Member, Performance and Value for Public Money

15 December 2010

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Purpose of Report

To agree a corporate framework within which all future decisions on implementation and/or changes in the levels of fees and charges are considered and approved

Recommendations

It is recommended that Council approve:

- the Framework outlined within the report be agreed and used in establishing future charges

- that the framework be developed as part of the Council’s Medium Term Financial Strategy and that a review of all current charges is undertaken on an annual basis

- the price increases set out in Appendix 2 are agreed as scheduled and are effective from the 4 January 2011 subject to the conclusion of relevant consultation with all necessary consultees
FEES AND CHARGES POLICY

1 Background

1.1 A significant element of the Authority’s activities are underpinned by income generated through a variety of fees and charges made in relation to such activities.

1.2 Whilst being an important element of the overall financing of the Council’s services and activities, fees and charges can also have an important role in other areas such as:

   - Demonstrating the value of a service
   - Discouraging abuse of a service
   - Strengthening service and corporate objectives
   - Promoting and encouraging access to services

1.3 It is also important to note that good practice requires that Authority’s should use charging to support their objectives and need to ensure that:

   - There is good evidence on the likely impact of charges on patterns of service use by different groups of users;
   - The objectives of charging are clearly communicated to the public who should have the opportunity to hold the council to account;
   - Evaluation takes place on whether decisions made are having the desired effect and take appropriate action if not.

1.4 The current financial pressures arising from the Comprehensive Spending Review reinforce the need for a charging policy and continuous review of prices. It is particularly important to ensure in the current financial climate that prices are on market, that services are not being inappropriately subsidised, that the Council is maximising income where it chooses to so and that income is reviewed within a developed and developing framework.

1.5 It is therefore appropriate that the Authority reviews its current position and agrees a coherent and consistent approach to determining its charges moving forward.

1.6 The policy will cover all services that can apply charges to external customers, including residents, business, schools and partner agencies but excluding:

   - Council tax
   - Housing Rents and service charges
   - Fees and charges fixed by statute

1.7 Clearly future decisions on whether to charge and at what level to charge need to be considered within a framework that is used throughout the organisation to
achieve clarity and consistency in approach to decision making. All services must therefore comply with the policy.

2 Current Position

2.1 It is proposed that the overall principle aim will be to ensure that the Council’s fees and charges are set within a framework of value for public money, whereby financial, performance, access and equality are considered fully and appropriately, and decisions taken represent a transparent and balanced approach.

2.2 The legal basis for charging is based on the specific provisions contained in the Local Government Act 2003. In addition to existing statutory provisions which expressly authorise charging section 93 of the 2003 Act allows a local authority to charge for any services which it has discretion to provide. Charges cannot be made for any services for which there is a duty to provide or where legislation expressly prohibits the charging for discretionary services. In exercising its charging powers a local authority is under a duty to ensure that taking one financial year with another the income from any charges for a service does not exceed the cost of providing the relevant service. This means that over a realistic period of time any surpluses or under recovery of income should be addressed through a review of the charging policy. However the reinvestment of any income generated in excess of the cost of providing the service would not represent a surplus. The underlying principle behind the legislation is that one service should not be cross subsidising another as each service must be viewed as distinct for charging purposes. Statutory Guidance has been issued by the Secretary of State which needs to be taken into account in considering the exercise of the charging powers and which addresses the above principles in greater detail.

2.3 The key features that Members may wish to include in such a framework are outlined below:

- Fees and Charges will be structured to support the Authority’s priorities

- The income generated from Fees and Charges will be used to support the work of the Authority.

- Fees and Charges will normally be calculated on a marginal or full cost recovery basis, depending on the state of the market and any other relevant factors. Any concessions will be specified and separately agreed.

- Any Fees and Charges agreed to generate income greater than costs incurred should be clearly articulated as part of the decision, having regard to the principles in the 2003 Act and the Guidance issued by the Secretary of State.

- Market research, comparative data, management knowledge and any other relevant information will be used where appropriate to ensure that charges are properly prepared.
➢ Fees and Charges will not be used in such a way that would restrict access to information or services.

➢ The impact on income from fees and charges will be taken into consideration when a decision is taken to change any services provided by the Authority

➢ The cost of collection will be considered to ensure that fees and charges are economical to collect

➢ The income generated from fees and charges will be monitored on a monthly basis as part of the overall budget monitoring process

2.4 Through consideration of these factors and assessment of their relative importance for individual services, it is envisaged that the overall principal will be achieved.

2.5 It is intended that all charges will be reviewed on an annual basis within the above framework, as part of the Medium Term Financial Strategy and implemented on the 1 January annually. However, it is recognised that there may be a number of services where it may be more appropriate to undertake annual reviews and implement within different timescales. (e.g. school meals at the start of an academic year)

2.6 This will allow a schedule of fees and charges to be agreed and published each year following as part of the budget preparation, which will be updated during the year to reflect any decisions made at other agreed times.

2.7 It is also intended that the development and review of the Fees and Charges policy will be integrated with the Medium Term Financial Strategy and that the policy will be monitored to ensure that the objectives are being achieved.

2.8 Clearly as part of the 2011/12 budget process, there is a need to deliver proposals that reduce the base budget this coming year and on a recurring basis.

2.9 As part of this policy therefore, the opportunity will be taken on an annual basis to review the rationale behind and potential for charging for services.

2.10 As part of the policy development a number of fundamental 'simple questions' have been set out in Appendix 1 in relation to fees and charges that should assist in providing clarity of purpose and rationale behind Oldham’s charging mechanisms going forward.

2.11 It is also the case as with all elements of the Medium Term Financial Strategy (MTFS) that the framework should be kept under review. It is already planned that as part of the MTFS for 2012/13 and beyond the framework will be further developed to bring in a fully comprehensive comparator analysis with other authorities, data from statutory returns among other matters
2.12 It should be noted that the fees and charges quoted are net of VAT, a separate schedule will be circulated including VAT. Also that those relating to Licensing are the subject of a further review which is currently taking place.

3 Options / Alternatives

3.1 Options exist to either adopt or not the proposed policy and framework for future charging decisions and also the specific proposed price increases set out in Appendix 2.

4 Preferred Option

4.1 It is proposed that the policy be adopted and the price increases agreed as set out in Appendix 2.

5 Consultation

5.1 Consultation has taken place with all service managers.

6 Financial Implications

6.1 It is estimated that the proposed price changes will increase income by approximately £95,000.

7 Human Resources Comments

7.1 Not applicable

8 Legal Implications

8.1 Set out in full in the report

9 Risk Assessments

9.1 There is the possibility that income levels may be affected by consumer resistance, this will require monitoring during the year.

10 IT Implications

10.1 Not applicable

11 Property Implications

11.1 Not applicable

12 Procurement Implications
12.1 Not applicable

13 Environmental And Health & Safety Implications

13.1 Not applicable

14 Equality, community cohesion and crime implications

14.1 There is a positive duty on all public bodies, including councils, to promote race, gender and disability equality. These duties were introduced in various equalities legislation between 2001 and 2007. Collectively these duties have the common aim of ensuring that public authorities work to eliminate discrimination and promote equality in their activities.

14.2 Between October 2010 and April 2011 the Equality Act 2010 is coming into force. This extends the public sector equality duties to cover eight protected characteristics, namely:

- age,
- disability,
- gender,
- gender reassignment,
- pregnancy and maternity,
- race,
- religion and belief and
- sexual orientation.

Oldham’s approach to assessing the impact

14.3 Under equality legislation, public authorities have legal duties to pay ‘due regard’ to the need to eliminate discrimination and promote equality with regard to race, disability and gender, including gender reassignment, as well as to promote good race relations.

The law requires that this duty to pay ‘due regard’ be demonstrated in the decision making process. Assessing the potential equality impact of proposed changes to policies, procedures and practices is one of the key ways in which public authorities can show ‘due regard. Equality Impact Assessments (EIAs), therefore, provide a structured framework which enables the Council to ensure that it considers the equality impact of decisions, and to demonstrate to others that it has done so.

14.4 The equality impact assessment process being undertaken for the Council’s budget process involves:

- Initial screening – To identify whether any proposal has a significant adverse impact in respect of any protected characteristic i.e. whether the impact of the proposal falls disproportionately on any particular group – such as disabled people.
The budget proposal action plan forms completed by each Assistant Executive Director (AED)/Service Manager incorporate an initial equalities screening.

The initial screenings for the first tranche of proposals taken through Star Chambers were then independently reviewed by a small group of managers with knowledge of the equality legislation, comprising two senior officers from the Assistant Chief Executive’s directorate and a lawyer from the Legal Services team. The key roles of this review process were to:

- assess the potential equalities impact of each proposal – high/medium/low using the information provided
- provide challenge to those where we felt the initial screening did not accurately identify those equality groups potentially affected and require a further screening process to be completed.

This group will continue to assess initial screenings as further tranches of budget proposals are agreed through the Star Chamber process.

- **Full equality impact assessment** – A full equality impact assessment (or appropriate equivalent) is being carried out if the initial screening has identified that the proposal will have a significant adverse equalities impact. This relates to all proposals for which the impact is ranked as “Medium” or “High” on the list.

The EIA is a comprehensive process involving the need to:

- consider evidence of the equalities impact;
- consult and involve people affected by the proposals, where possible;
- consider action to mitigate the impact of the proposals.

**Involving elected members**

14.5 A key element to assessing the equality impact has been the involvement of elected members. This involvement has included:

- Consideration of equality impact throughout the Star Chamber process, including through the initial screenings on the proposal forms and a briefing paper.
- Briefings between Executive Directors and Cabinet Members during development of proposals and working together to consider the equality impacts and identify any mitigating actions.
- The EIA screening information was contained with the budget proposals submitted to, and considered by, Performance and Value for Money Scrutiny Panel;
- Elected Members will continue to be included in assessing the equality impact of additional proposals through individual briefings, the Star Chamber process and Scrutiny meetings.

**Public consultation**
14.6 An initial impact assessment will be carried out for each of the proposals and following the public consultation period, a full EIA will be completed to ensure that elected members have all the information to hand when making the final decision on whether to accept the proposal.

Sharing our budget proposals

14.7 An important element in our approach to assessing the equality impact of our proposals was running a series of workshops which centred around three main questions:
1. Have we assessed the potential impact correctly?
2. If the proposals were implemented, what would the impact be?
3. If the proposals were implemented, how could we mitigate the impact?

14.8 The workshops were attended by over 40 members of the Voluntary, Community and Faith Partnership and were intended to help us to understand the impact of budget proposals individually and as a whole. Analysis of feedback from the workshops concludes that the potential impact of the vast majority of proposals, in terms of low/medium/high has been assessed correctly. Where queries were raised regarding individual budget options we are following these up with the appropriate service managers.

14.9 A theme that emerged from the workshops was the need to think about the long-term, as well as immediate impact of proposals. This was strongly expressed, especially in relation to preventative services.

Key information for Members regarding existing legal duties

14.10 There is an existing positive duty on all public bodies, including councils, to promote race, gender and disability equality.

14.11 This includes paying “due regard” to the need to eliminate discrimination, promote equality and promote good race relations. The following paragraphs detail our statutory obligations:

- Regarding race, an authority shall, in carrying out its functions, have due regard to the need—
  (a) to eliminate unlawful racial discrimination; and
  (b) to promote equality of opportunity and good relations between persons of different racial groups

- Regarding disability -
  Every public authority shall in carrying out its functions have due regard to—
  (a) the need to eliminate discrimination that is unlawful under this Act;
  (b) the need to eliminate harassment of disabled persons that is related to their disabilities;
  (c) the need to promote equality of opportunity between disabled persons and other persons;
(d) the need to take steps to take account of disabled persons' disabilities, even where that involves treating disabled persons more favourably than other persons;
(e) the need to promote positive attitudes towards disabled persons; and
(f) the need to encourage participation by disabled persons in public life.

- As to gender -
  A public authority shall in carrying out its functions have due regard to the need—
  (a) to eliminate unlawful discrimination and harassment, and
  (b) to promote equality of opportunity between men and women

**Future duties**

14.12 The Equality Act 2010 replaces a range of existing equalities legislation. From 1 April 2011, it will create a general duty for public authorities to:

- eliminate unlawful discrimination, harassment and victimisation;
- advance equality of opportunity between different groups; and
- foster good relations between different groups.

14.13 This duty relates to eight “protected characteristics”, namely: age, disability, gender, gender reassignment, pregnancy and maternity, race, religion and belief and sexual orientation.

**Implications for financial decisions**

14.14 In taking financial decisions the Council must demonstrate that it has given “due regard” to the need to eliminate discrimination, promote equality of opportunity and promote good relations between different groups.

14.15 Demonstrating that “due regard” has been given involves:

- assessing the potential equalities impact of proposed decisions at an appropriate stage in the decision making process – so that it informs the development of policy and is considered before a decision is taken;
- ensuring that decision makers are aware of the equality duties and any potential equality issues when making decisions.

14.16 To ensure that the process of impact assessment is robust, it needs to:

- Be clear about the purpose of the proposal;
- Consider available evidence;
- Include consultation and involvement with those affected by the decision;
- Consider proposals for mitigating any negative impact on particular groups;
- Set out arrangements for monitoring the actual impact of the proposal.

14.17 The Council in adhering to the legal requirements has already completed a number of EIAs and reported these throughout the budget preparation as has been highlighted above. In addition it has embarked on a range of consultation
s necessary to complete all EIAs in time for the Budget Council meeting in February

15  **Forward Plan Reference**

15.1 PCAPS-17-10

16  **Key Decision**

16.1 Yes

17  **Background Papers**

17.1 The following is a list of background papers on which this report is based in accordance with the requirements of Section 100(1) of the Local Government Act 1972. It does not include documents that would disclose exempt or confidential information as defined by the Act:

- Various working papers

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18  **Appendices**

  Appendix 1  Checklist
  Appendix 2  Fees and Charges 2011/12
WHAT DO WE WANT TO ACHIEVE?

What objectives are we supporting with charges?
How much income are we trying to generate, and why?
Whose use of services do we want to subsidise, and by how much?
Whose behaviour are we hoping to influence, and in what ways?
How will charges help improve value for public money, equity and access to services?
How do these objectives relate to other council priorities?
What principles should underpin our approach to charging?

WHAT’S THE CURRENT PICTURE?

What targets have been set for charges and what assumptions are these based on?
How do charges compare to:
  - Similar councils?
  - Neighbouring councils?
  - Other service providers?
How are charges structured, and why?
Are cost effective mechanisms available for paying and collecting charges?
Are the charging objectives being met?
Are income targets being achieved?
What is the impact, intended or unintended, of charges on local people?
Which people are using services and which aren’t?
Which users are paying for services and which aren’t?
Are concessions being taken up by the people at whom they are targeted?
Are we maximising the take-up of related benefits in this area?
How does the impact of charging on behaviour and budgets compare to:
  - Similar councils?
  - Neighbouring councils?
  - Other service providers?

WHAT DO LOCAL PEOPLE THINK OF OUR CHARGES?

Have we consulted service users and the public about:
  - The current and proposed charges for the service?
  - The value for money of the service?
Do service users and taxpayers understand our objectives and how the structure of our charges contributes to achieving them?

WHERE DO WE GO FROM HERE?

What changes, if any, should we make to the level and structure of charges?
How will we evaluate the impact of charges?
What data will we need?
Can we collect this data cost effectively?