

Oxfordshire's Corporate Charging Policy

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FOREWORD

Both the Audit Commission and the Government have emphasised the importance to local government finance of the ability of local authorities to charge for a number of the services that they carry out. In addition, charges can be used as an instrument of policy - congestion charges are one example of this.

The County Council currently levies charges for a wide range of its services. The policy contained in this document is designed to ensure that:

- charges are levied on a clear and consistent basis across the Council's services.
- the level of charges is both consistent and fair, and takes proper account of the ability of customers to afford the services. That level of charges will reflect true cost plus a return, where this is legal and possible, for the Council's expertise.
- where concessions are given, they are offered in a consistent way across the Council's services.
- the services for which charges are made, and the level of charge, are annually reviewed.
- the views of customers are sought and taken into account when setting charges over which the Council has control.
- recovery of charges is carried out efficiently and effectively.
- charges are imposed and implemented lawfully and in line with the Council's corporate objectives.

Specific policies are shown highlighted in bold.

While consistency is important, uniformity cannot be imposed rigidly. There will be cases where it is right for a particular service to depart from the guidelines contained in this policy. Where a departure is justified, however, it will only be implemented following the procedures contained in this policy. This will ensure that a corporate approach is taken to all the charges made by the Council.

This policy will be reviewed on an annual basis as part of the Service and Resource Planning process. This will enable the Council to review its performance and to revise the policy as necessary to reflect changing circumstances and experience gained.

THE POWER OF THE COUNCIL TO CHARGE FOR SERVICES

This policy document does not cover cases where the Council charges other local authorities and certain other public bodies for services that we provide. The Council has wide powers to charge (cost recovery) and trade (cost recovery plus profit) with such bodies under s 1 Local Government (Goods and Services) Act 1973.

There are two legal options for charging for services, these are recovery of costs or trading to make a profit.

The rules on charging where only cost recovery is permitted are that as long as:

- (i) the Council has a statutory power to engage in the activity;
- (ii) there is no other specific legislation dealing with it; and
- (iii) the Council is not under a mandatory duty to perform the activity;
- (iv) then a charge can be levied (cost recovery only). Note that cost recovery is defined very widely and covers all reasonable costs including administrative charges and so forth.

The rules on charging relating to trading (cost recovery plus making a profit) are that the Council can trade with other local authorities or certain public bodies defined by statute. For all other trading the Council can only trade as long as:

- (i) the Council has a statutory power to engage in the activity;
- (ii) there is no other specific legislation dealing with it;
- (iii) the Council is not under a mandatory duty to perform the activity; and
- (iv) trading is undertaken through a trading company set up for this purpose.

These are the legal restrictions. The Council may also impose further rules on itself to manage spending and control activities.

WHEN CHARGES WILL BE MADE

It is the Council's policy to make charges whenever it is lawful for it to do so.

Charges will be made in all cases where there is an express statutory duty or power to charge for a service. In the absence of an express power, it is not always straightforward to decide whether the ability to charge for a service can be implied from an Act of Parliament. **Accordingly, unless there is an express power to charge, no charge will be levied without confirmation from the Council's Legal Services that the charge is lawful.**

In all cases where a charge is made, the objectives of the charge will be set out in the plan produced for the service in question. The plan will also include targets based on usage levels, revenue or some other quantifiable aspect of the service.

In cases where the service for which a charge is possible fulfils an important social function, the Council may decide not to impose a charge. The Council does, however, have a fiduciary duty to its inhabitants to be prudent with regard to its finances. Accordingly, no departure from the normal policy to levy a charge will be made unless the reasons for the departure are given in the relevant service's plan and approved by elected members.

Where commercial organisations are receiving the Council's services with a view to profit, those services may be charged for at a commercial rate through a trading company. Otherwise only costs can be recovered.

THE LEVEL OF CHARGE

The level of some charges is prescribed by central government. **Where the Council has discretion as to the level, charges will be set at a level designed to recover the full cost of providing the service in question.** The cost to be reflected in the charge will include, in addition to the direct cost of providing the service, indirect costs such as a fair and appropriate proportion of the cost of premises, central services and other overheads.

Departures from this policy will only be approved where:

- The service provides an important social benefit. In these cases charges, where made, may be set at a level below that needed for full cost recovery.
- The service is of a purely commercial nature (e.g. letting out Council premises and land for hire or rental, or carrying out work for other public bodies). In these cases charges will be set at a proper commercial level, designed to maximise income, and will be invoiced at the earliest opportunity.
- The charge relates to services provided through a trading company. In these cases charges will be set to support a breakeven position as a minimum and in consideration of market factors.

- The charge is designed to achieve a particular policy objective by encouraging alternative behaviour (e.g. congestion charges or charges for certain types of waste handling). In these cases charges will be set at a level designed to achieve the policy objective in question. This will not necessarily mean that income maximisation will be pursued, as the charge may be set at a higher level, designed to deter people from adopting a particular course of action and incurring the charge.

In all instances where a departure from the normal cost-recovery policy is considered justified, the reasons must be given in the service's plan.

Charges set other than at a level designed to recover full costs will not be implemented without the specific approval in each case of elected members, or in the case of services provided through a trading company, approval of a framework for determining charges for the activity. In each such case the rationale for setting the charge at the level proposed will be set out.

CONCESSIONS

Concessions may be given in the case of services fulfilling an important social benefit or in the case of charges designed to achieve a particular policy objective.

Concessions will not be given for services of a commercial nature. All users of such services will be expected to pay the full charge.

Where concessions are considered appropriate, they will be given to the following groups:

- **Group 1 - children under 16 and others in full-time education** (proof of age and, if appropriate, a student card or other proof of qualification will be required in order to claim the concession)
- **Group 2 - People unable to work through disability** (proof of entitlement to disability allowance or incapacity benefit required)
- **Group 3 - retired men and women if over the women's state pension age** (proof of age and retirement required)
- **Group 4 - those on low incomes** (proof of income support, housing benefit, council tax support, tax credits, jobseekers' allowance or universal credit required).

Concessions will normally be at the rate of one-half the standard charge. Concessions may be set at a different rate, whether higher or lower, or a full exemption from the charge given in appropriate cases. No departures from the normal half rate policy will be made without the specific approval of Cabinet, other than in exceptional circumstances in which case the relevant director or deputy director can approve a departure from the normal half rate policy.

In order to ensure compliance with the Data Protection Act, no use will be made of personal data held by the Council in order to establish an entitlement to a concession unless the claimant agrees in writing.

REVIEW OF CHARGES

All services must consider, as part of the annual service and resource planning process, all the activities which make up the delivery of that service, and assess which of them may be made the subject of a charge, seeking Legal Services advice if necessary.

A report on the review of charges for all services will be considered annually by the Cabinet. This will set out:

- those aspects for which charges are required by law
- those aspects for which charges may be imposed at the discretion of the Council

Where charges are mandatory or permissible, the report will set out whether the level of charges is prescribed by law or is at the Council's discretion.

Where an activity is chargeable but no charge is proposed to be made, the reason will be explained in the report.

The report will set out, for each proposed charge, whether the activity being charged for fulfils a useful social purpose, is commercial in nature or is an instrument of policy.

Where charges are proposed at a level other than a full cost recovery basis, the reasons will be explained.

Details of concessions shall be given. If the concession scheme for any charge differs from that contained in this policy, reasons will be given.

Targets based on usage levels, income or other quantifiable aspect of the service shall be given. Achievement of these shall be monitored throughout the year.

The activities for which charges are made, the level of charges and concessions and the income produced shall, at a maximum interval of three years, be compared to those of other authorities or other appropriate organisations in order to demonstrate the achievement of value for money.

CONSULTATION

The Council is committed to listening to all members of the community and to involving local people and organisations in service planning and delivery.

The Council's approach to consultation is set out in its "Consultation Strategy". The making and level of charges will be included within the principles of that strategy.

SERVICE AND COMMUNITY IMPACT ASSESSMENT

Impacts must be considered when setting charges. The Council needs to:

- Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Equality Act.
- Advance equality of opportunity between people who share a protected characteristic and those who do not.
- Foster good relations between people who share a protected characteristic, and those who do not.

The Council needs to:

- Remove or minimise disadvantages which are connected to a relevant protected characteristic (which are set out in the following list) and which are suffered by persons who share that characteristic,
- Take steps to meet the needs of persons who share a relevant protected characteristic and which are different from the needs other people, and
- Encourage those who share a relevant characteristic to take part in public life or in any other activity in which participation by such people is disproportionately low.
- Take steps to meet the needs of disabled people which are different from the needs of people who are not disabled and include steps to take account of a person's disabilities.

Protected characteristics are:

- Age
- Disability
- Gender reassignment
- Pregnancy and maternity
- Race – this includes ethnic or national origins, colour or nationality
- Religion or belief – this includes lack of belief
- Sex
- Sexual orientation
- Marriage and civil partnership

More details are given on the 'Service and Community Impact Assessments' on the Intranet, currently on the following page:

<http://intranet.oxfordshire.gov.uk/cms/content/service-and-community-impact-assessment-guidance>

A Service and Community Impact Assessment must be considered if a new charge is introduced or if there are significant changes to existing charges that the Council can control.

ROLES AND RESPONSIBILITIES

Officers

Service managers are responsible for undertaking the review of charges set out above and proposing the charges for their area(s) of service for consideration by Cabinet. This review must be completed annually in line with the service and resource planning timetable.

If a change to an existing charge or new charge is required outside of the annual review process, the service manager must ensure the proposed change or new charge is included in the directorate's Financial Monitoring report.

Elected Members

Cabinet is responsible for considering and approving the annual review of charges and any changes to charges or new charges that are recommended through the Financial Monitoring report.

On an exceptional basis, if changes to charges or new charges are needed for business reasons at short notice and there is no Financial Monitoring report to Cabinet that month, the relevant Cabinet portfolio holder is responsible for considering and approving this through a delegated decision. Delegated decisions on charges made by Cabinet portfolio holders will be reported to Cabinet in the next Financial Monitoring report.