

Scrutiny Co-ordination Committee

16th September 2009

Cabinet

22<sup>nd</sup> September 2009

**Name of Cabinet Member:**

Cabinet Member (Finance and Value for Money) - Councillor Foster

**Director approving submission of the report:**

Assistant Chief Executive  
Director of Finance and Legal Services

**Ward(s) affected:**

City wide

**Title:**

Charging Policy

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**Is this a key decision?**

Yes - Cabinet are asked to approve a new Charging Policy which will impact on the fees and charges levied for all services across the Council.

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**Executive summary:**

The Cabinet is aware that with the medium term financial pressures facing the Council, there will be significant challenges to meet in order to deliver a balanced revenue programme over the coming years. Setting the appropriate level for fees and charges is an important element in balancing the Council's revenue budget.

The former Value for Money (VfM) Partnership Board commissioned a review of income generation opportunities, a number of which have been taken into account in the 2009-10 budget setting process, and also decided that it would be appropriate to establish a Charging Policy, against which the setting of all fees and charges should be measured in the future. This Policy is contained within this report.

**Recommendations:**

**Cabinet** is recommended to:

- a) approve the Charging Policy for implementation across the Council, and
- b) note that the Corporate Management Team (CMT) is being charged with the task of exercising governance over charging arrangements, and that a working group of CMT is being tasked with reviewing all the Council's fees and charges, and the way in which the concessions policy should be applied across the Council.

**Scrutiny Co-ordinating Committee** is recommended to consider the Charging Policy and convey its comments to Cabinet

**List of Appendices included:**

Appendix 1 – Examples of Council Services where charges can be applied

Appendix 2 – Context of fees and charges for individual services

Appendix 3 – Eligibility Criteria for Concessions

Appendix 4 – Specific Service Issues

Appendix 5 – Key components of service income proposals

**Other useful background papers:**

None.

**Has it or will it be considered by Scrutiny?**

Yes

Scrutiny Co-ordination Committee – 16<sup>th</sup> September 2009

**Has it, or will it be considered by any other Council Committee, Advisory Panel or other body?**

No

**Will this report go to Council?**

Yes

20<sup>th</sup> October 2009

**Report title:**  
Charging Policy

**1. Context (or background)**

- 1.1 The Cabinet will be aware that with the medium term financial pressures facing the Council, there will be significant challenges to meet in order to deliver a balanced revenue programme over the coming years. Setting the appropriate level for fees and charges is an important element in balancing the budget.
- 1.2 The VfM Partnership Board commissioned a review of income generation opportunities, a number of which have been considered in the 2009-10 budget setting process, and also decided that it would be appropriate to establish a Charging Policy, against which the setting of all fees and charges should be measured in the future. This Policy is contained within this report.

**2. Options considered and recommended proposal**

- 2.1 A corporate policy and approach to charging is vital to ensure that the Council maximises opportunities for increasing income from fees and charges, in a way which also takes into account the fact that income generation can support wider Council objectives. The policy appended to this report sets out clear, consistent principles that should underpin all activity relating to fees and charges and provides a framework for all Council services to follow, to ensure that fees and charges are both set, and reviewed, in a consistent and timely manner across the organisation. It reflects discussions initiated by the VfM Partnership and some research of other authorities' policies.
- 2.2 There is recognition that there will need to be work done to improve our baseline information for some fees and charges – for example, ensuring that we understand the full cost of service delivery, including overheads, so we can apply the full cost recovery principle. This should not prevent us from making progress towards quick implementation of the policy immediately, and, with the support of the Corporate Management Team (CMT), ironing out any issues as they emerge with individual services/charges.

**3. Results of consultation undertaken**

- 3.1 No consultation undertaken on the proposals contained within this report. However, consultation will take place on any increases in specific fees and charges in accordance with normal practice as proposals are put forward.

**4. Timetable for implementing this decision**

- 4.1 The CMT is being charge with the task of exercising governance over charging arrangements, and a working group of CMT is being tasked with reviewing all the Council's fees and charges, and the way in which the concessions policy should be applied, to ensure the Policy is being followed. This work will be undertaken within the next 6 months.

## **5. Comments from Director of Finance and Legal Services**

### **5.1 Financial implications**

This charging policy will enable the setting of the appropriate level of fees and charges across the Council which is an important element in balancing the Council's revenue budget on an ongoing basis.

### **5.2 Legal implications**

5.2.1 The Council's ability to levy fees and charges is based upon a range of legal powers, some specific to individual services, and some more general. These are taken into account currently and will continue to be taken into account as this policy is implemented. Some powers allow discretion in how the charges are calculated and others (for eg licensing fees and charges) are based on cost recovery, as is the discretionary power to charge in Section 93 of the Local Government Act 2003. Section 93 does not replace other charging powers but supplements them. It does not apply to services which the authority is under a duty to provide or where there is an existing power or prohibition to charge.

5.2.2 Additional restrictions on the discretionary power to charge include the requirement that, taking one financial year with another, income must not exceed costs and the service user must agree to use or receive the service. Discretion is also provided in relation to how and whom to charge. Utilising this discretion must have regard to statutory guidance issued by the Secretary of State ("General Power for Best Value Authorities to charge for Discretionary Services – Guidance on the Power in the Local Government Act 2003, November 2003).

5.2.3 Section 95 of the Local Government Act 2003 authorises a council to do for a commercial purpose anything it is authorised to do for the purpose of carrying out its ordinary functions. The power may not be used where the Council is under a duty to provide the service or where there is an existing power to trade (eg Civic Restaurants Act 1947 and Section 145 Local Government Act 1972 for the provision of entertainments).

5.2.4 The trading power must be executed by a company. Adherence to statutory regulations is also required ("General power for local authorities to trade in function related activities through a company, April 2007).

5.2.5 As well as identifying any relevant powers, those powers need to be exercised properly through proper procedures. There is also a need for any increase in fees or charges to be reasonable, taking into account previous charges and any requirement for consultation. In the case of Manchester City Council v King 1991, the court found that the council had not paid sufficient regard to the ability of street traders to absorb additional costs, which was an increase of significant proportions (£40 to £1,000). The council were found to have acted unlawfully and for improper purposes.

## **6. Other implications**

### **6.1 How will this contribute to achievement of the council's key objectives / corporate priorities (corporate plan/scorecard) / organisational blueprint / LAA (or Coventry SCS)?**

The Charging Policy sets the framework within which the Council sets its fees and charges. It is vital to ensure that the Council maximises opportunities for increasing income from fees and charges in a way which takes into account the fact that income generation both supports wider Council objectives, and also helps to manage the medium term financial position. This supports the objective of ensuring the Council maximises its resources and allocates them in line with corporate priorities to set a balanced budget within the context of a Medium Term Financial Strategy.

### **6.2 How is risk being managed?**

There are no identified risks at this stage.

### **6.3 What is the impact on the organisation?**

No implications.

### **6.4 Equalities / EIA**

The impact will need to be assessed at the time that consideration is given to specific increases in fees and charges

### **6.5 Implications for (or impact on) the environment**

There are no implications.

### **6.6 Implications for partner organisations?**

The impact will need to be assessed at the time that consideration is given to specific increases in fees and charges.

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# Proposed Charging Policy

## 1. Statutory background

Councils have powers to charge for a wide range of services. Many of these powers derive from legislation which is applicable to specific service areas. In addition, the local Government Act 2000 introduced the wide power to promote or improve economic, social or environmental well being. The well being power is not a charging power in itself but if, for example, the aim was to introduce a new service for residents and as part of making the service viable there was a need to charge, then that would be acceptable. Since then, the Local Government Act 2003, has enabled local authorities to charge as they choose to for discretionary services, provided they are not prohibited by other legislation and taking one year with another they do not make a profit.

Despite this, recent research conducted by the Audit Commission indicates that powers to charge for discretionary services have remained largely unused and that only one in five councils believes it uses charging to its full potential ("Positively Charged", 2008). There is a recognised need for councils to have an agreed policy to guide decisions on charging. The Audit Commission noted that by strategically using charging and concessions, councils can influence behaviour by targeting services towards specific user groups. Councils need to be empowered to use charging to support local policies and priorities and be responsive to local circumstances. This will help them to fulfil their place shaping roles and responsibilities.

## 2. Key aims and objectives of Charging Policy

A corporate policy and approach to charging is vital to ensure that the Council maximises opportunities for increasing income from fees and charges, in a way which takes into account the fact that income generation can support wider Council objectives. There is a balance to be achieved about the degree to which services are funded by charging users and from taxation.

Key aims and objectives can be summarised as follows:

- To provide a corporate, principled framework in which fees and charges are set and reviewed in a consistent and transparent manner,
- To set out a clear rationale for charging and trading that is aligned with the Council's broader strategic aims.
- To ensure consistency in the application of concessions and to ensure that any subsidy aligns with the Council's objectives and reflects ability to pay.
- To establish clear governance and performance management arrangements for charging related activity.

## 3. Charging Principles

The key charging principles are:

- To optimise levels of income from fees, charges and trading whilst ensuring broader strategic objectives are met.

- To review the level of fees and charges for all services annually as part of the budget setting process.
- To have a consistent approach to concessions.

This policy seeks to reflect the wide variety of services that the Council provides and the different needs they address. The starting point for determining charges is to assess the nature of each (potentially) chargeable service. Appendix 1 sets out a selection of services that are provided by councils and can be charged for. Appendix 2 provides a template that Directorates need to keep under review for all their services that do or could levy charges. The aim is to provide context for the determination of fees and charges at an individual activity/service level.

#### 4. Service Categories

Whilst many of the Council's services sit within a complex local policy and legal framework, in broad terms they fit within one of the following categories:

Category	Meaning
Statutory Duty	<p>There is a legal requirement to either provide the service, or ensure it is provided (a duty) with little or limited flexibility in its content or provision.</p> <p>Typically it would have high impact if users are not able to access the service where there is a demonstrable need, for example elements of social care.</p> <p>Typically these services are high Council service priority – provision and access are at the heart of a Council policy objective – partly because these are statutory duties.</p> <p>There is potentially high negative impact on users and Council policy by charging for service or achieving full cost recovery.</p>
Discretionary	<p>The Council has powers to deliver services but not a duty. These may include certain legal requirements or guidance but with significant flexibility for the content/provision of service.</p> <p>Typically these services may be medium to lower Council service priority, (although they may be very valued by customers) and there will be a manageable impact from adopting market pricing.</p>



## **5. Charging for Statutory services**

Issues to take into account are:

- Many statutory services are the subject of regulated fees and charges which will provide an over-riding framework and determine where local policy discretion exists.
- The delivery of statutory services usually represents the Council's discharge of a legal duty that has a high impact on certain residents. It will therefore need to consider carefully the impact of any charging in terms of service access, take-up, and non-delivery.
- The Council starts from a position of charging where the law allows, and recovering full costs, but it recognises that in these service areas, there are more likely to be factors which lead to a decision not to charge full cost recovery.
- The proportion of cost recovered for any service should be clearly identified and where the Council provides a subsidy, its underlying rationale clearly set out.
- It is particularly important in this area that charging is targeted towards those customers who can afford to pay.

## **6. Charging for Discretionary services**

Issues to take into account are:

- The Council seeks to achieve full cost recovery (including overheads) for discretionary services except where it expressly determines to the contrary or the law prevents this.
- Any decision to the contrary should be supported by a business case.
- If moving away from full cost recovery, and by implication incurring a subsidy, the Council will have regard for the impact on other Council priorities and objectives. As an example, the Council may determine that it is prepared to subsidise certain services because their take-up or use has a positive (often intervention-based) impact – such as swimming on well-being or health. The required business case must balance the benefits achieved from not charging with the revenue costs.
- The Council recognises that a number of discretionary services will also be provided by alternative providers. Usually however, the Council will retain control of pricing through the contract/delivery arrangements. In determining the level of fees and charges, the Council will have regard for market alternatives (in terms of cost and quality) and the peripheral benefits to the Council and residents of the Council's delivery role. The Council will also periodically test the rationale for service delivery in these circumstances.

## **7. Concessions**

The Audit Commission defines a concession as any service for which a local authority has discretion to make a charge, and in so doing, sets that charge below the cost of service provision. Concession setting is a balancing act. The Audit Commission indicates that councils should be wary of extending concessions to those who may be able and/or willing to pay more. It is also important that concessions are not 'wasted' on services that are a lower priority for the Council.

The VfM Partnership work looked at concessions policies in some other local authorities. Based on this research, it seems clear that good practice would require a balance to be struck between the standardisation of the approach to, and eligibility criteria for, concessions whilst allowing for service specific targeting of individuals and groups in support of specific objectives of the Council.

This policy requires a tiered approach in which concessions are offered to residents who are identified as the least likely to be able to afford services. Concessions will be applied across all service areas where possible, and in many cases, the Council will require proof of entitlement in order to apply the concession but the policy does not introduce additional means-testing, rather it relies on what already exists. Examples of proof include award notices and order payments books from the Benefits Agency and Inland Revenue. Appendix 3 sets out further details on how the proposed eligibility criteria will apply. It does need to be recognised, however, that there will be some services where the offering of concessions will be impractical, for example car parking, or will be uneconomic because the costs of establishing eligibility for concessionary charging are prohibitive in relation to the value of the charge.

## **8. Charging by service type**

Within the overall context and direction provided in this policy, the Council must take into account a range of service specific factors when determining fees and charges. Some of these service specific issues are set out in Appendix 4.

## **9. Process for reviewing charges and associated governance arrangements**

Fees and charges activity will be overseen by a sub group of the Corporate Management Team, established by Management Board. The key responsibilities of the Management Board in relation to charging are to:

- Ensure that income generation is being maximised within the framework set out in this policy
- Make 'go and no-go' decisions in relation to new and existing income opportunities
- Ensure that income decisions are based on evidence based principles which support realistic estimates of the income level to be achieved
- Act as a Gateway for income-related business case investment
- Monitor and review performance of income generation against agreed targets
- Receive and consider an annual review of all chargeable Council services
- Consider and take decisions on proposals for changes in prices and the balance of cost and income

- Consider and take decisions on concession rates and target groups.

In considering both charges and concessions, and in ensuring that the Charging Policy is adhered to, key issues are:

- Whether the service is statutory or discretionary
- How the service aligns with the Council's corporate policy
- The impact of charging on incentivising behaviour
- Whether there are alternative provider(s) and their charging policies
- The quality of Council services compared with alternatives
- Service cost recovery
- Relevant comparators/Benchmarking – such as other authorities' levels of fees and charges, and any known market changes
- Changes in any regulatory position.

The Governance timetable for fees and charges will need to be embedded within the Council's corporate performance management and budget setting cycle, and specific proposals for increases in fees and charges will need to be developed in the first six months of the financial year where possible, so that decisions can be made in line with the Council's medium term financial planning/ budget setting process.

**Examples of Council Services where charges can be applied**

Service block	Examples of services/activities where charges can be applied
Social Care	<ul style="list-style-type: none"> <li><input type="checkbox"/> Home care services</li> <li><input type="checkbox"/> Day care services</li> <li><input type="checkbox"/> Residential care</li> <li><input type="checkbox"/> Respite care</li> <li><input type="checkbox"/> Transport e.g. dial-a-ride and transport to day centres</li> </ul>
Education	<ul style="list-style-type: none"> <li><input type="checkbox"/> Youth centre charges</li> </ul>
Environment	<ul style="list-style-type: none"> <li><input type="checkbox"/> Cremation and burials and related items such as head stones</li> <li><input type="checkbox"/> Trade waste</li> <li><input type="checkbox"/> Trading standards e.g. weights and measures</li> <li><input type="checkbox"/> Environmental health e.g. food hygiene training</li> <li><input type="checkbox"/> Pest control</li> </ul>
Housing	<ul style="list-style-type: none"> <li><input type="checkbox"/> Community alarm</li> <li><input type="checkbox"/> Handyperson service</li> <li><input type="checkbox"/> Houses in Multiple Occupation licence</li> </ul>
Highways and Transportation	<ul style="list-style-type: none"> <li><input type="checkbox"/> On street and off street car parking</li> <li><input type="checkbox"/> Penalty charge notices</li> <li><input type="checkbox"/> Licensing objects on the highway e.g. skips, scaffolding, tables and chairs</li> <li><input type="checkbox"/> Vehicle crossovers</li> </ul>
Planning and Development	<ul style="list-style-type: none"> <li><input type="checkbox"/> Building control</li> <li><input type="checkbox"/> Planning applications</li> <li><input type="checkbox"/> Copying of key building control/planning documents</li> </ul>
Culture	<ul style="list-style-type: none"> <li><input type="checkbox"/> Leisure centres and sports activities e.g. cricket, bowls and golf</li> <li><input type="checkbox"/> Libraries e.g. overdue library book fines, photocopying services, music and DVD rentals</li> <li><input type="checkbox"/> Museum entry and hire for events e.g. weddings</li> </ul>
Legal Services	<ul style="list-style-type: none"> <li><input type="checkbox"/> Registration of births, deaths and marriages</li> <li><input type="checkbox"/> Land charges</li> </ul>

**Context of fees and charges for individual services**

Service	Statutory / Discretionary?	National Statutory Framework and national setting of charge?	National Statutory Framework but locally set charge?	Locally determined charge?	Who are the customers?	Is there an external market?	Are concessions currently applied?	What current level of concession and basis?
Bulky Waste	Discretionary	No	No	Yes	Business citizens	Yes	Yes To OAPs	ranges from 33% to 12% dependent on number of items
Pest control	Discretionary, although no statutory requirement to provide a pest service, there is a general duty upon a local authority to keep its area free from rats and mice under the Prevention of Damage by Pests Act 1949 and additionally a duty on local authorities to enforce the provisions of this act with regard to ensuring that private land is kept free from rats and mice.	No	No	Yes	Business, citizens	Yes	Yes	There are no charges regarding rodent treatment. Concessions allowed for people on Housing Benefits.
Hackney	Statutory	No	No	Yes	Taxi firms	No	No	N/a

Service	Statutory / Discretionary?	National Statutory Framework and national setting of charge?	National Statutory Framework but locally set charge?	Locally determined charge?	Who are the customers?	Is there an external market?	Are concessions currently applied?	What current level of concession and basis?
carriage licensing								
Advertising and sponsorship	Discretionary	No	No	Yes	Business and private individuals	Yes	No	N/a
Central vending	Discretionary	No	No	Yes	Business	Yes	No	N/a
Skip Hire Permits	Statutory	No	No	Yes	Business and private individuals	No	No	N/a
Scaffold permits and inspections	Statutory	No	Yes		Business and private individuals	No	No	N/a
Utilities charging	Statutory	No	Yes	In part	Utility companies	No	No	
Cemeteries and crematoria	Discretionary	No	No	Yes	Citizens and private individuals resident outside Coventry	Yes in terms of private funeral directors	No	N/a
Street naming and numbering	Discretionary	No	No	Yes	Business and private households	Yes	No	

Service	Statutory / Discretionary?	National Statutory Framework and national setting of charge?	National Statutory Framework but locally set charge?	Locally determined charge?	Who are the customers?	Is there an external market?	Are concessions currently applied?	What current level of concession and basis?
					rs			
Car parking charges	Discretionary	No	No	Yes	Visitors to Coventry	Yes	Yes in relation to parking on Sundays but concessions applied to all	Reduced fees for Sunday parking
Social care charges	Some statutory e.g. blue badges and some discretionary e.g. home care, meals service	No	Fairer Access to Care Services (FACS) This guidance provides councils with a framework for setting their eligibility criteria for adult social care. Coventry only offers services to those with critical or	Yes	Vulnerable residents including older people, individuals with mental health needs and learning disabilities	Yes	Individuals are financially assessed to determine Home community care e.g. day care and home care. There is often a maximum charge	

Service	Statutory / Discretionary?	National Statutory Framework and national setting of charge?	National Statutory Framework but locally set charge?	Locally determined charge?	Who are the customers?	Is there an external market?	Are concessions currently applied?	What current level of concession and basis?
			substantial need					
Building control	Statutory	No	Yes – charges set within a range	Yes	Business and private individuals	Yes	No	N/a
Planning	Statutory	Yes	No	No	Business and private individuals	Yes	No	N/a



## Appendix 3

### Eligibility criteria for concessions

Issues to take into account in determining concessions are:

- Residents will be accorded priority over non-residents in any concessionary and other pricing policies.
- Net charging, i.e. after any subsidies and concessions, will reflect ability to pay. A base charge will be set for each service and concessions and subsidies will subsequently be applied, as appropriate.
- Concessions and subsidies will be standardised wherever possible and fully aligned with Council priorities.
- Where relevant, pricing should encompass positive incentives but also penalties/premiums if a deterrent is desirable.
- Key cost and price decisions should be made in a transparent way, and clear responsibility allocated for monitoring these income decisions.
- The cost recovery principles established by the Best Value Accounting Code of Practice should be utilised throughout
- The practicality of administering the concession
- The cost of administering the concession

### Notes and issues to consider

- The Council will need to identify the services to which it wishes the concessions policy to apply.
- The Council will need to identify the services where it wishes to promote take up across the board and apply agreed concessions.
- What benefits received by customers are deemed to be relevant for the application of concessions.
- The Council will need to consider how best to manage the granting of concessions, to prevent an excessive administrative burden.

The Corporate Management Team will consider as part of its brief how best to formulate concessions applicable to specific fees and charges, which take into account the issues set out above.

**Service Specific Issues**

Service Area	Key issues to consider
Culture and Leisure	<ul style="list-style-type: none"> <li>• Leisure facilities involve significant sunk costs (of fixed assets) that cannot typically be fully recovered by charging. Swimming is a good example. Whilst generally adopting BVACoP principles in considering the extent to which costs are recovered, the Council may need to make some adjustments in these service areas.</li> <li>• Notwithstanding the above, services are generally discretionary and therefore the Council aims to fully recover costs except where charging would have a detrimental impact on other Council priorities and objectives</li> <li>• The quality, quantity, location and access to alternative service provision will be considered when setting fees and charges for leisure services.</li> <li>• Price sensitivity and ‘elasticity of demand’ will be considered when setting prices.</li> <li>• Any subsidies or concessions should be clearly aligned with Council priorities.</li> </ul>
Social Care – children and adults	<ul style="list-style-type: none"> <li>• Social care services often provide protection for the most vulnerable residents. The services are usually characterised as statutory and the relevant principles must therefore be applied. In determining net charges the Council must place paramount importance on the impact of non-delivery or take-up and ability to pay.</li> <li>• Most services are statutory and many have statutory charges attached to them. The Council will therefore charge in line with these legal requirements.</li> <li>• Some services require financial assessment and these will inform subsidy rates and concessions in accordance with the Council’s policy.</li> <li>• The impact of self directed support (with implications such as budget and care package personalisation) needs to be considered as the Council may need to reposition its services to ensure they are attractive to service users and that the appropriate safeguards remain. This policy area will therefore need to be reviewed in due course.</li> <li>• A carefully focused use of subsidy is needed to ensure that the most vulnerable are protected and that those who are willing and able to pay, do so.</li> </ul>
Environment, Planning and Development, Highways and Transportation	<ul style="list-style-type: none"> <li>• This area includes a mix of statutory and discretionary services and appropriate principles will be applied. The Council will seek to augment statutory services such as development control with other valued discretionary services such as planning advice – the former being covered by regulated charging regimes and the latter directed at recovering full costs.</li> </ul>

Service Area	Key issues to consider
	<ul style="list-style-type: none"><li data-bbox="586 266 1471 432">• The quality and quantity of alternative service provision must be analysed when setting fees and charges. Some Council services such as pest control and car parking have significant market competition but both also have peripheral policy implications – health and well-being and economic regeneration respectively.</li><li data-bbox="586 436 1471 592">• Where there is strong competition, the Council needs to be cognisant of the overall need to recover costs, balancing this with benchmarking of charges/alternative market provision and the impact of the Council's role in the market – stimulating/regulating market capacity and also pursuing related policy ambitions.</li></ul>

**Key components of service income proposals**

- Current charge
- Proposed price change
- Income estimate and target
- Estimated gross and net costs, including an explanation of how this has been Calculated
- How the charge is to be collected and the cost implications
- Benchmark data to compare with the position in similar services
- Income as a % of expenditure
- Subsidy per user – including the reason for subsidy if applicable
- The cost impact of any concessions offered
- Analysis of the impact of the proposed charge including any assumptions and user/market information used as an evidence base
- Income target and service outcome target