

## CABINET REPORT

<b>REPORT TO:</b>	<b>CABINET 14 SEPTEMBER 2022</b>
<b>SUBJECT:</b>	Increase of Fees and Charges
<b>LEAD OFFICER:</b>	Jane West Corporate Director of Resources and Section 151 Officer
<b>CABINET MEMBER:</b>	Councillor Jason Cummings Cabinet Member for Finance
<b>WARDS:</b>	All

### **SUMMARY OF REPORT:**

This report requests approval by Cabinet to changes in fees and charges that are made in respect of supplies and services supplied by the Council to the extent that these fall within the authority of the Executive to determine. Cabinet should be aware that many regulatory functions have statutory fees which are set or are required to be considered by the relevant regulatory committees as they are precluded from being executive functions.

### **FINANCIAL IMPACT**

With the cost of providing charged-for goods and services going up due to inflation and other factors, the Council needs to increase its charges by an equivalent amount to ensure it still continues to recover its costs.

The proposed increases in fees and charges as set out in Appendix 1 contributes to the delivery savings of £1.2m as approved by Full Council in March 2022 as part of the annual budget and Medium-Term Financial Strategy report.

**KEY DECISION REFERENCE NO.:** This is not a key decision

### **1. RECOMMENDATIONS**

The Executive Mayor in Cabinet is recommended to:

- 1.1 To approve the fees and charges as set out in Appendix 1
- 1.2 To have due regard to the equalities impact assessment in Appendix 2 in making the decisions set out in these recommendations

## **2. BACKGROUND**

- 2.1 The Council provides a wide range of services to residents and businesses. For some of these the Council is entitled to make a charge. For others it is not permitted to do so. Reasons for making a charge include:

- There is a statutory charge — for example, planning fees and licensing fees.
  - It is the Council's policy to recover its costs in relation to the discretionary or incidental provision of goods or services provided so that they are not funded by the council taxpayer.
  - It may be the Council's policy to partially subsidise a service to encourage take-up (e.g. sports) or to support a policy objective (e.g. bulky waste collections to reduce fly tipping).
  - There is an existing market that would be distorted if the Council did not charge the market rate — for example, trade refuse collection — although charges are still subject to the cost recovery basis set out in statute.
- 2.2 Like other businesses, the Council's costs are affected by demand and supply factors such as inflation. It is good practice for the Council to review its charging policies and the level of charges annually to ensure that they stay relevant and reflect the Council's underlying costs.
- 2.3 The Council is required to ensure that, taking one year with another, the income from charges does not exceed the costs of provision as this would be contrary to the statutory basis which permits the Council to charge in relation to discretionary or incidental services.

### **3. METHODOLOGY**

- 3.1 This review was carried out by updating the list of fees and charges from the last full review, which was carried out in 2021. The list was also compared with the lists of fees and charges from other councils to ensure it was comprehensive. The updated list is attached at Appendix 1. This list does not represent the full range of fees and charges but only those for which a proposal to increase has been received and a Cabinet decision is required.
- 3.2 Cabinet will be aware that many regulatory functions have statutory fees which are set or are required to be considered by the relevant regulatory committees as they are precluded from being Executive functions.
- 3.3 The decision was taken to treat parking charges separately, and they are excluded from this review. Property rental income is also excluded. Licensing and regulatory related fees are non-executive functions and are reserved for consideration by non-executive committees of the Council. There are also officer delegations in place from the relevant regulatory committees in relation to certain highways charges (skip licences, scaffolding licences etc) and although considered as part of the review are not presented in this report for decision as they are non-executive functions.
- 3.4 Information about the volume of sales is not readily available, making it difficult to check whether the budget is in line with [price x quantity of] sales. It has not been possible to ascertain whether budgets are significantly out of line with actual income. In most cases budgets have been set through top-down income target setting, not resulting in changes to charging policy or prices that would deliver the target. In some cases, budgets are not set in a way that would enable the financial impact of levels of activity to be monitored. Further work will be undertaken over the summer to align budgets and actual income collection levels.

## 4. PRINCIPLES

4.1 The following principles have been applied in developing charging policies and setting recommended price levels:

- Charging policy will be one of the following:

Charging Policy	Description
Statutory	The price or price formula is determined by the government
Full cost recovery	The price is set to fully recover direct costs and overheads of the services or goods provided
Subsidised	The price is set at a level below full cost recovery for policy reasons
Market price	The price is determined by the market (although the council is constrained to a maximum of full cost recovery)

- Charging policies should be reviewed and the level of income maximised in each case within the statutory and policy constraints.
- All new opportunities to charge for Council goods and services should be identified and put into effect.
- At the very least there should be an annual inflation increase in prices to reflect the underlying increase in the costs of providing the goods or services. Inflation will be calculated at CPI or the specific rates applicable to costs of service delivery.
- It is recognised that some prices are statutory and cannot be changed. Consideration should be given to whether the volume of sales could be influenced to increase or decrease in each case to improve the overall position.
- Full cost recovery means that the price should factor in direct costs, indirect costs such as management, training etc., and central overheads such as HR and Legal. Where this has not been the case the price will be adjusted accordingly.
- Pricing structures should be simple. Requirement for complex calculation or costing should be removed wherever possible.
- Charges should be 'price pointed' — i.e. rounded to a figure that is easy to remember for customers and to administer. This reflects private sector practice and meets customer expectations.

- There should be transparency concerning charges and the reason for any subsidy. Standard fees and charges should be published on the Council's web site.
  - Fees and charges should be collected in advance or at point of sale wherever possible. The Council should not offer credit terms (i.e. issue a 30 day invoice after the service has been provided) unless this is required by law or there is a competitive market that operates on that basis.
- 4.2 The impact of adopting the principles set out above will be to ensure that the council fully bills for fees and charges to recover the full cost of providing the goods or services and that recovery action is taken as appropriate for unpaid debts where payment is not received in advance.

## **5. FINANCIAL AND RISK ASSESSMENT CONSIDERATIONS**

### **5.1 Revenue and Capital consequences of report recommendations**

- 5.1.1 The proposed increases in fees and charges as set out in Appendix 1 contributes to the delivery savings of £1.2m as approved by Full Council in March 2022 as part of the annual budget and Medium-Term Financial Strategy report.

## **6. RISKS**

- 6.1 The Council continued to experience reduced income throughout 2021/22 due to the ongoing impact of Covid 19.
- 6.2 The Council received compensation from the government for this loss of income in the form of grant income in 2021/22 at 75% losses (after first 5%) for the first quarter of 2021/22. However, no further Government support has been available since 1 July 2021.
- 6.3 Income from fees and charges is also subject to risk in relation to other national and local demand factors (e.g. the buoyancy of the local economy) as well as supply factors such as the level of cost inflation.
- 6.4 Government decisions concerning the level of statutory charges also represent a threat to income levels, particularly when there is no annual uplift to ensure charges keep pace with costs.

Approved by: Matt Davis, Interim Director of Finance

## **7. LEGAL CONSIDERATIONS**

- 7.1 The Head of Litigation and Corporate Law comments on behalf of the Director of Legal Services that where the relevant statute sets out a fee or charge for the service in question, the Council does not have a discretion to alter that and nothing within this report will permit such a change.
- 7.2 Where the Council is providing a statutory service which the Council is mandated to provide or which the Council has a duty to provide, this is not subject to an authority to charge unless this is set out in the relevant statute and according such matters are not covered by this report or any associated charging policy.

- 7.3 There are specific powers to charge for services detailed throughout local government legislation, for example section 19 of the Local Government (Miscellaneous Provisions) Act 1976 permits charging for the use of leisure and recreational facilities and section 38 of the 1976 Act permits entering into agreements with other persons to make full use of local authority computers and equipment. However those provisions are subject to parameters which the council is required to adhere to in charging for such matters.
- 7.4 The Local Government Act 2003 ("the 2003 Act") introduced a general power to charge for the provision of any discretionary service. The discretionary charging powers do not apply to services which an authority is mandated or has a duty to provide. However, councils can charge for discretionary services (that is, services they have power to provide but are not obliged or have a duty to provide by law). In order to do so, the recipient of the discretionary service must have agreed in advance, to pay for the provision of such services. The 2003 Act power cannot be used where charging is prohibited or where another specific charging regime applies. Charging is limited to cost recovery and statutory guidance published in 2003  
[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/8310/151291 .pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/8310/151291.pdf) outlines how costs and charges should be established and that guidance remains in force. In setting the proposed fees, the Council is required to have regard to this guidance.
- 7.5 A local authority may be able to rely on the subsidiary powers under section 111 of the LGA 1972 to authorise the provision of a service to facilitate the discharge of a specific function. If reliance were to be placed on this power, it would be necessary to be satisfied that the function in question is incidental to the discharge of statutory functions of the Council. Where this is established, the local authority may charge under section 93 for that function-related service.
- 7.6 This power in relation to incidental services is subject to the restriction in S 93 that it cannot be used to raise income — i.e. you could not use it to generate a profit, but could rely on it to charge equivalent to the costs of provision of the "service" which is incidental to the statutory function.
- 7.7 In relation to utilisation of the general power of competence in the Localism Act 2011 ("LA 2011"), these charging provisions follow, very closely, the requirements of the 2003 Act to allow local authorities to charge up to full cost recovery for discretionary services. These provisions operate alongside rather than replace the Local Government Act 2003 powers.
- 7.8 The power to charge under the LA 2011 is subject to a duty to secure that, taking one financial year with another, the income from charges does not exceed the costs of provision. As with the 2003 Act powers, charging for things done in exercise of the General Power of Competence is not a power to make a profit from those activities.
- 7.9 In relation to fees pertaining to Allotments, the Council must ensure that the relevant statutory provisions pertaining to the Allotment Acts are complied with, in particular in relation to Section 10 of the Allotment Act 1950.
- 7.10 With regard to the Edited Electoral Register the Council must ensure that the provisions of the Representation of the People (England & Wales) Regulations

(RPR) 2001 - which set out, among other matters, the fees which may be charged regarding the edited register - are complied with.

- 7.11 Finally, where the introduction of new/altered fees or charges requires consultation and/or engagement with affected users to have been undertaken prior to the proposed changes, officers will need to have satisfied themselves that the appropriate actions have been taken prior to bringing forward these proposals for members' consideration. Where notice or publication of changes to charges is required in respect of any fees/charges under specific legislative or common law requirements, officers will ensure that the appropriate notices have been published in accordance with the relevant requirements.

Approved by Sandra Herbert, Head of Litigation and Corporate Law

## **8. HUMAN RESOURCES IMPACT**

- 8.1 None.

## **9. EQUALITIES IMPACT**

- 9.1 Under the Public Sector Equality Duty of the Equality Act 2010, decision makers must evidence consideration of any potential impacts of proposals on groups who share the protected characteristics, before decisions are taken. This includes any decisions relating to how authorities act as employers; how they develop, evaluate and review policies; how they design, deliver and evaluate services, and also how they commission and procure services from others.
- 9.2 Section 149 of the Act requires public bodies to have due regard to the need to:
- eliminate unlawful discrimination, harassment, victimisation and any other conduct prohibited by the Act;
  - advance equality of opportunity between people who share a protected characteristic and people who do not share it; and
  - foster good relations between people who share a protected characteristic and people who do not share it.
- 9.3 Protected characteristics defined by law include race and ethnicity, disability, sex, gender reassignment, age, sexual orientation, pregnancy and maternity, and religion or belief.
- 9.4 Having due regard means there is a requirement to consciously address the three tenets of the Equality Duty within decision-making processes. By law, assessments must contain sufficient information to enable the local authority to show it has paid 'due regard' to the equalities duties; and identified methods for mitigating or avoiding adverse impact on people sharing protected characteristics. Where a decision is likely to result in detrimental impact on any group with a protected characteristic it must be justified objectively.
- 9.5 Like many local authorities, Croydon Council utilises Equality Impact Assessments (EQIA) to have due regard to the requirements of the Equality Act. An EQIA has been completed for the proposed changes in fees and charges and is attached to this report.
- 9.6 In summary, the EQIA has identified that whilst some of the changes may have an impact, this impact is considered to be minimal. The proposed changes are, in

almost every case, below the inflation rate of 10.1% in July 2022 (which is forecast to increase further) – often significantly below the inflation level. The EQIA also recognises that the wider economic context, with inflation at historically high levels, may impact residents.

9.7 Although the impact of changes to the Council fees and charges is considered to be low, the EQIA outlines a number of mitigations that the Council has in place to support residents with fees and charges, many of which provide a positive benefit to protected characteristic groups. A selection of examples from the full EQIA include:-

- There are discounted rates for all leisure centre activities for Croydon residents with disabilities. If a disabled person needs a carer with them in order to access leisure centre services, the carer is entitled to free entry.
- Croydon Council Leisure Centres offer discounted rates for residents Seniors 60+ years and Juniors 4-15 years
- Croydon Council Money Advice Service for advice on paying your bills and debt worries. All advice is independent and confidential.

9.8 It should be noted that there are a small number of fees and charges that the council is the sole provider for. It is not possible for residents to access services from an alternative commercial supplier. It should also be noted that one household may be affected through paying several fees for a range of services and/or have multiple protected characteristics within the household.

9.9 As set out elsewhere in the report, the change in fees and charges contributes to the Council's budget for delivering service to residents. If these are not increased the resulting financial pressures could lead to service reductions which could impact on residents more than the proposed fee changes.

9.10 Finally, the EQIA highlights the importance of service departments collecting and using data on their service users to identify the impact on protected characteristic groups. This is an area for improvement and a project is underway with the support of the Head of Profession for Data interpretation, business analytics and insight and the Equalities Manager, reporting to the Corporate Management Team and the Equality, Diversity & Inclusion Board.

Approved by: Gavin Handford, Director of Policy, Programmes & Performance

## **10. ENVIRONMENTAL IMPACT**

None

## **11. CRIME AND DISORDER REDUCTION IMPACT**

None

## **12. DATA PROTECTION IMPLICATIONS**

### **a. WILL THE SUBJECT OF THE REPORT INVOLVE THE PROCESSING OF 'PERSONAL DATA'?**

**YES** — The processing of fees and charges involves the processing of customer data such as name, address, and the service required by the customer.

**b. HAS A DATA PROTECTION IMPACT ASSESSMENT (DPIA) BEEN COMPLETED?**

**NO** - not required as the arrangements for processing personal data in relation to fees and charges are not directly under review as a result of this report. Any process change resulting from the recommendations will be subject to a DPIA and the results will be reported as part of the decision making process.

**CONTACT OFFICER:** Matthew Davis Interim Director of Finance

**APPENDICES TO THIS REPORT:**

Appendix 1 — Croydon Council Fees and Charges 2022/23

Appendix 2 — Equality Analysis

**BACKGROUND DOCUMENTS:** None