

**REVIEW OF FEES AND CHARGES
(Report by the Director of Commerce & Technology)**

1 PURPOSE

- 1.1 The purpose of this report is to:
- Set out the legal position on our ability to set fees and charges
 - Analyse the Council's current income from fees and charges
 - Identify opportunities for increasing our income from fees and charges, net of associated costs, having regard to our corporate objectives
 - Identify areas where policy decisions are needed, particularly as regards adopting a consistent approach across the Council

2 BACKGROUND

- 2.1 Council services can be split into two types – statutory services, which we have some form of legal obligation to provide, and discretionary services. For both types of service, there are some for which we charge and some for which we do not.
- 2.2 For statutory services, case law has determined that:
“a power to charge [has] to be authorised by statute, either expressly or by necessary implication. Determining whether such a power is implied can be determined only in the particular statutory scheme”.
- 2.3 This is not particularly helpful, but it does suggest that caution should be exercised when considering whether to charge for a statutory service when that is not expressly provided for in the relevant legislation.
- 2.4 Further to this, in July 2004, legislation was passed allowing best value authorities with a CPA rating of “fair” or better to “do for a commercial purpose anything which it is authorised to do for the purpose of carrying on any of its ordinary functions”. This new power is largely untested, but it does provide us with an opportunity to think differently about income generation.
- 2.5 Where we have both the power to charge and the discretion to set the level of charges, that discretion is delegated to Chief Officers and Heads of Service, as set out in the Code of Financial Management (page 211 of the Constitution):
“They are responsible also for reviewing and varying fees and charges annually for services under their control to reflect service objectives and Council policies”.
- 2.6 Where the issues involved are significant, the matter may be referred to Cabinet for a decision – car parking charges, for example. The Overview and Scrutiny Panel (Finance & Planning) working group (“the working group”,

consisting of Cllrs Muir, Downes, Mitchell & Reynolds) has suggested that members should be involved in the charges-setting process, specifically that the relevant Executive Councillor(s) and / or Panel Chairman should be consulted. This proposal is incorporated into the draft policy in Annex A..

3 CURRENT POSITION

Summary and analysis of income

- 3.1 Our budgeted income for 2004/5 totals £8.834m. It is worth noting that, by comparison, our total income from Council Tax is about £5.3m.
- 3.2 Of our income from fees and charges, some £2.061m (23%) is either fixed by statute or limited to cost recovery, either by contractual agreement or, again, by statute. The balance of £6.773m (77%) relates to those where the level we set is at our discretion.

This discretionary figure consists of:

| | £000 |
|---|--------------|
| Discretionary services: | |
| Leisure centres | 3,844 |
| Car parking | 989 |
| Rents on commercial property | 674 |
| Markets | 196 |
| Refuse collection (trade and bulky waste) | 101 |
| Others (all <£70k) | 394 |
| | <u>6,198</u> |
| Statutory services: | |
| Land charges | 474 |
| Licensing | 101 |
| | <u>575</u> |
| Total | <u>6,773</u> |

4 SCOPE FOR INCREASING INCOME

- 4.1 **Leisure Centres** present an opportunity because they already provide £3.8m of our income, 43% of the total, and are not subject to any statutory constraints. The centres operate in a competitive market, though, and pricing must take market factors into account. Also, the primary purpose of the service is to support our corporate priority of A Healthy Population, so prices, particularly for activities like swimming, are set so as not to present a barrier to those on low incomes – the number of visitors is an important performance measure for the centres.
- 4.2 The main opportunities for increasing leisure centre income were identified in 2003 as being the Impressions fitness suites (operating at all centres except Sawtry) and events and hospitality, particularly at the Burgess Hall. The Business Generation team was set up to develop these areas in particular, and a paper to the Service Delivery & Resources Scrutiny Panel on 2nd November shows that, building from a strong base, this has been very successful. The team will continue to work with the Leisure Centres Co-

ordinator and Leisure Centre Managers to increase income while sustaining or increasing visitor numbers.

- 4.3 The Leisure Centres Co-ordinator met with the Leisure Centre Management Committee chairmen on 4th October to discuss proposed increases in charges for 2005/6. While some charges will be frozen at 2004/5 levels, the average increase is well above inflation. The main consideration in determining the level of charges is what the market is likely to bear. For example, swimming admissions have decreased steadily, by an average of 5% p.a., over the last 5 years, so the prices for 6-monthly and annual passes have been frozen this year.
- 4.4 A comparison of HDC with the 142 other non-unitary Councils with leisure centres shows that only 3 have higher income than we do. Compared to the 69 of these authorities which are broadly similar to HDC (with a population density of 2.5 per hectare or less):
- Our income per capita is 2nd highest (£27 per head)
 - Our income as a % of expenditure is 3rd highest (64%)
- This suggests that we are already very successful at income generation.
- 4.5 While we provide a high quality service and are successful at income generation, it is still an expensive service to run. A full review of the service is outside the scope of this exercise, but we will be looking at alternative ways of providing the service, including outsourcing and adopting trust status, over the next year.
- 4.6 **Parking charges** are the other main area of opportunity, particularly as increases in charges do not result in significant additional increases in costs. The level of charges depends on the balance which members want to strike between two of our corporate priorities – A Clean, Green & Attractive Environment and A Strong & Diverse Local Economy. Our environmental objectives require that we encourage people to reduce their use of the private car, but our local economy objectives include support for our market towns, which unduly high parking charges may jeopardise.
- 4.7 Parking charges have not been increased since 1999. Cabinet reviewed various options on 14th October 2004 and decided on increasing charges, with a particular emphasis on stays over 2 hours. The working group has asked that, when charges next come up for review, three specific areas are looked at again:
- On-street parking, where they feel that charges should be made for the first 20 minutes;
 - Residents' permits, which they feel should be free; and
 - Season tickets, where they feel that charges, particular for a 5-day ticket, should be higher.
- 4.8 **Rents on commercial property**, while a significant source of revenue, do not represent a major opportunity for increased income. We already make a reasonable return on these properties, even though we provide them first and foremost for economic development purposes for business start-ups. The rentals we charge are in line with private sector rents, so to increase them would not only be counter to that objective, it would also risk depressing demand and thereby reducing income rather than increasing it.

- 4.9 The situation is similar with **markets**. In theory, pitch fees are set so as to recover the costs of operating the markets. In practice, however, our objective of having vibrant market towns dictates that we set pitch fees at the highest level which will still ensure something close to maximum take-up of pitches. To increase the fees would result in fewer stalls, which would probably create a spiral of reduced public spending in the markets and consequently reduced income from pitch fees.
- 4.10 The Head of Operations Division has reviewed **trade waste** collection recently and concluded that there is limited scope for increased income generation. However, new outline proposals from DEFRA may present an opportunity, and he will be putting a paper to Cabinet in the New Year to evaluate the options for taking the service forward. Domestic **bulky waste** was reviewed by Scrutiny and Cabinet in 2003 and it was concluded, amongst other things, that it would not be appropriate to increase charges because it would probably lead to increased fly tipping.
- 4.11 **Land charges** legislation requires that “the authority shall have regard to its costs” in setting charges. This is open to interpretation - we currently have regard to a number of other things as well, such as the level of fees charged by neighbouring authorities¹. Arguably, it means that we are not allowed to make a surplus. There is case law on licensing which holds that an authority is not permitted to make a surplus in order to subsidise other services, but no similar case has ever been brought on land charges.
- 4.12 East Cambridgeshire District Council’s CON29² search fee is £170 compared to our £89, and all our neighbouring Councils’ fees are higher than ours, except for those of South Cambridgeshire District Council and Cambridge City Council. The average charge of these 7 authorities for a domestic CON29 search is £115, and Peterborough City Council and South Bedfordshire District Council also charge around a 50% premium for commercial searches.
- 4.13 We currently make a notional surplus of around £200k p.a. The working group has proposed that we increase our charge for a basic search to £110, with an appropriate discount for searches which we receive and return electronically. This would, in theory, generate additional income of around £100k each year.
- 4.14 This additional income would be by no means certain, however. While land charges form a very small part of the overall costs of a property transaction, we need to be aware of the competition provided by personal search companies, which market themselves to solicitors and aim to undercut us on price. We can only charge the statutory fee of £17 for a personal search.
- 4.15 At the moment, we restrict search companies’ access to our records on the basis that we have limited resources to assist them in their inspections. However, we are one of a large number of local authorities which have been named in an appeal to the Office of Fair Trading (OFT) by a group of personal search companies, on the basis that our approach constitutes a restrictive

¹ Peterborough City Council, Fenland District Council, Cambridge City Council, South Cambridgeshire District Council, East Cambridgeshire District Council, East Northamptonshire District Council and Mid-Bedfordshire District Council.

² CON29 is the detailed report setting out the majority of the search information. It is this element which is discretionary – the statutory element is £6.

practice. We should consider carefully whether to increase land charges before the OFT has reached its conclusions on this issue.

- 4.16 **Licensing fees** are mostly set by us, although some are statutory. The service contributes to our priorities of Safe & Active Communities and Accessible Services and Transport Choices, so the pricing must avoid discouraging taxis, public entertainment, and similar activities and services. It should be noted, however, that charges in 2003/4 amounted to £106.7k, £65.6k of which was for taxis, whereas the cost of the service, including internal recharges, was £165.5k (£174.9k if the costs of the Licensing & Protection Panel are included), a deficit of £58.8k (£68.2k).
- 4.17 We are not allowed to cross-subsidise one licence fee or set of fees with another. Our options are therefore dictated by the level of fees for taxis (Hackney carriages and private hire), as they represent over 60% of total fees and notionally incur the largest deficit. While we have no information as to the likely impact of any increase in taxi fees, a comparison with neighbouring authorities shows that, at £150, ours are currently on a par with Peterborough, lower than Cambridge City (£223) and higher than the others. The working group took the view that it would not be appropriate to increase them by an amount above the level of inflation.
- 4.18 There are no other significant areas of income. However, there is also no overall policy on what criteria officers should apply in determining fees and charges where they are not constrained by legislation. It does not seem possible to be prescriptive, but a logical principle to adopt formally would be for officers to seek to maximise income, net of associated costs, within the relevant legislative constraints and having regard to our corporate priorities.
- 4.19 **Planning fees**
It is worth noting that, while the ODPM currently sets planning fees, it is consulting on a proposal both to increase those fees significantly and to introduce an element of discretion in certain areas. Until that consultation has been completed and the relevant legislation enacted, though, we have no control over charges.

5 NEW POWER TO TRADE

- 5.1 The power to trade comes with a number of constraints, including the requirement to prepare and have Council approve a detailed business case, incorporating market research and a full risk assessment. There are a number of services which we could contemplate developing through this mechanism, for example:
- Leisure centres
 - CCTV
 - Grounds maintenance
- but a great deal of work would be required to evaluate the potential benefits and assess the possible mechanisms for trading, such as joint ventures with other councils or the private sector.

6 DISCOUNTS, CONCESSIONS AND EXEMPTIONS

- 6.1 There is no written policy on discounts, concessions and exemptions. Different custom and practice have arisen in different services over time, and there is little consistency. Depending on the service, they are available to:
- Children (under 5)
 - Juniors (under 16)
 - Old age pensioners (OAPs)
 - People on means-tested benefit
 - OAPs on benefit
 - People with disabilities
- 6.2 We should consider having a corporate approach to this issue, and a clear policy. There is also potentially an opportunity to increase income by doing away with some discounts or making them all means-tested, for example by restricting them to those on benefit. This would probably have the greatest impact on old-age pensioners, but many pensioners in the District are relatively well-off and receive discounts for certain services, whereas many people on benefit don't get any form of discount.
- 6.3 Huntingdon Leisure Centre is about to take part in the roll-out of the Inclusive Fitness Initiative, a lottery-funded national project sponsored by Sport England. This involves making certain physical changes to the centre, but also involves removing part of the financial obstacle to participation by providing discounts to those who can provide documentation to demonstrate that they have a disability. We are taking this opportunity to extend the discounts to those on a means-tested benefit. The trial will last 6-12 months; the results will then be reported to the Leisure Centre Management Committees and we will decide whether to extend it to other centres.
- 6.4 An important consideration in determining our policy on discounts, as it is in deciding all our fees and charges, is the balance between generating income and encouraging or enabling participation. Leisure centre discounts are designed to increase participation, and therefore to generate income as well as facilitate A Healthy Population. Other discounts, for example those to OAPs, are designed simply to ensure that those customers can afford the service.
- 6.5 It is difficult to estimate the extent to which the demand for various services would change if our existing approach to discounts changed. Scrapping some discounts could potentially increase income, but if demand fell as a result it might actually decrease it.
- 6.6 The range of discounts which we could choose to provide is practically limitless, and the likely financial consequences of each variation would be different. It seems obvious that discounts should be given where this increases both customer numbers and net income. Beyond that, the working group took the view that priority should be given to making our services affordable to the least well-off members of the community.

- 6.7 This would potentially involve:
- Introducing discounts for those on means-tested benefits; and / or
 - Removing discounts for those customers who can afford to pay the full price but currently receive a discount anyway, for example OAPs not on benefits.
- This is a complicated area needing further research, and will be the subject of a separate report in the new year.
- 6.8 It should be noted that it is not practical to apply the same set of discounts across all services. For example, drivers with a disability have an exemption from parking charges because to charge them would probably result in them parking on double yellow lines instead, which we want to avoid. This is clearly not a reason to give people with disabilities discounts across the board. It is proposed that, at least until the research referred to in 6.6 above is completed, each service continues to set its own discounts based on the needs of its customers. Any new discount which would result in a net cost to the Council would, of course, need to go through the normal MTP process.
- 6.9 **Provision of services to town and parish councils, voluntary and other local organisations**
- 6.10 A number of services provide advice and support to parish councils and other local bodies free of charge. No explicit policy decision has ever been taken to do this, and we are doing more of it as various forms of regulation increase, from personnel and health & safety advice to compliance with new legislation such as the Disability Discrimination Act and the Data Protection Act.
- 6.11 This form of support helps to build and maintain good relationships and contributes towards our corporate goal of Effective Community Leadership. It should also be noted that we receive support and advice from other organisations as well, not least the County Council, so we should be wary of creating a situation where we end up paying more than we are charging. Also, if we were to introduce charges for this type of support and advice, we may well be in breach of the principle set out in paragraph 2.2 above in that there is no specific legal power for us to do so.

7 CONCLUSIONS

- 7.1 We generate a significant amount of income from fees and charges - £8.8m compared to £5.3m from Council Tax. While around £2.0m of this is governed by statute, the remaining £6.8m is discretionary. We have no written policy governing how the level of these charges should be decided.
- 7.2 We also have no written policy governing the level of discounts which we provide, or the various customer groups to whom we provide them.

8 RECOMMENDATIONS

8.1 It is recommended that Cabinet:

- Adopts the Policy set out in Annex C;
- Requests the Head of Administration to incorporate the relevant changes into the next review of the Constitution in Spring 2005;
- Approves the proposed increase in the charge for a CON29 search to £110 with effect from 1st April 2005; and
- Notes the intention of the Director of Commerce & Technology to produce a report in the New Year on the implications of potential changes to our current approach to discounts

BACKGROUND INFORMATION

Income budget for 2004/5

Schedules of fees and charges prepared by each service

Notes of meetings of the working group

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DRAFT FEES AND CHARGES POLICY

Fees and charges

Chief Officers and Heads of Service shall be responsible for setting fees and charges for the services under their control, after consultation with the relevant Executive Councillor(s) and / or the Chairman of the relevant Panel. In doing so, they shall:

- Ensure that all relevant legislation is complied with, particularly where it specifies the charges to be made or constrains them in some way.
- Having regard to the charges of any alternative service providers with whom we are competing, seek to maximise income, net of applicable costs, as far as is possible without compromising the Council's stated corporate priorities and objectives.

Discounts

Discounts shall be provided where either of the following applies:

- They are expected to stimulate demand and generate additional net income which would not otherwise be gained.
- They are in the best interests of the service and its customers, particularly where they make the service available to those who could not otherwise afford it, provided that such discounts do not result in an additional net cost to the Council.