



## Draft Fees and Charges Policy December 2018



Northamptonshire  
County Council

# Northamptonshire County Council Fees and Charges Policy

## 1 Introduction

- 1.1 Income from fees and charges represent an important source of funds to the Council, and enable a range of services to be provided within the county and beyond. This policy establishes the framework by which fees and charges levied by the Council are agreed and regularly reviewed.
- 1.2 The policy allows the Council to have a properly considered, consistent and informed approach to all the fees and charges it levies for its services. This supports the delivery of the Council Plan and the annual budget decision.
- 1.3 The setting and review of fees and charges is incorporated into the annual budget setting timetable. Incorporating the review into the service and planning process also permits consideration of cross-cutting issues and impacts in the context of wider policy objectives. There will be one consolidated schedule of all the Council's fees and charges for each year, which will be approved as part of the budget setting process at Full Council in February each year.

## 2 Background - Statutory and discretionary charges legislation

- 2.1 Statutory services are those services that an authority is mandated to or has a duty to provide and are excluded from this fees and charges policy as they are either directly funded by Government grants, local taxation or exempt from fees and charges.
- 2.2 The Local Government Act 2003 provides a general power to charge for discretionary services (services that an authority has the power, but is not obliged to, provide). Additions or enhancements to mandatory services above the standard that an authority has a duty to provide may be provided as discretionary services.
- 2.3 Northamptonshire County Council (NCC) may generate income from the public through charging and trading for services that exceed the statutory requirements or are added value optional services. Commercial and income generating activity cannot be applied directly to core statutory or essential services, however as noted, there is the opportunity to charge for any added value services provided in excess of the statutory function.
- 2.4 The Council may not make a profit on its charging activities, or subsidise other services and cannot charge for services that customers do not choose to use. A profit may be defined as a surplus received in excess of the full cost of delivering the service. Full cost includes all direct costs, such as pay and materials, and also indirect costs including overheads such as finance, accommodation, HR and IT.
- 2.5 In accordance with the Localism Act 2011 and 'general powers of competence' contained within it, local authorities may trade in any eligible service permitted by the Council's constitution. But if such authorities seek to raise profits that can be used for reinvestment or other services, they must conduct this commercial activity via a separate trading

company. However, services can be traded across the public sector environment, without having to establish a trading company.

- 2.6 In addition, the Localism Act 2011 allows a local authority to do “anything that individuals generally may do” that is a lawful activity. Although the Act gives local authorities greater power, the authority is a public body and accountable for its actions to provide best value for its constituents. The standard procurement and contract regulations also apply.
- 2.7 This approach has been fully considered within the Council’s strategic plan whilst ensuring compliance with the principles, regulations and legislation outlined above.
- 2.8 More detailed information regarding the applicable legislative framework is contained in Appendix 1.

### 3 Charging Models

- 3.1 When determining how to charge for the services being undertaken, there should be a clarity on the legal basis for charging, and supporting justification for the model chosen. The main charging models are set out in the table below.

Full commercial – the default position	The Council seeks to maximise revenue within an overall objective of recovering the full cost of provision, including all overheads, investments, cost of sales and development.
Full commercial with discounts	As above, but with discounts being given to reflect market conditions and enable trade. Discounted costs are met out of service budget.
Full commercial with concession	As above, but with concessions being given to enable disadvantaged groups to access the service. There needs to be a clear case for this.
Subsidised	Council policy is to make the service widely accessible, but believes users of the service should make some contribution from their own resources. Could also be due to the adverse impact a commercial charging policy would have on other Council services.
Nominal	The Council wishes the service to be fully available, but sets a charge to discourage frivolous usage.
Free	Council policy is to make the service fully available without charge.
Statutory	Charges are set in line with legal obligations and charges are only made for added value services.
Property Rental / Lease	Properties that are rented or leased to third parties should be done so at a commercial rate. Where this does not occur, it should be highlighted and an explanation provided to Cabinet

### 4 Application of Fees and Charges Policy

- 4.1 Existing fees must be reviewed at least annually. The default assumption is that fees and charges should be inflated annually by the Consumer Price Index (CPI). If CPI is

negative, the rate should be deemed to be zero for the purposes of calculating fees and charges.

- 4.2 Managers have discretion to use professional judgement to deviate from this approach where market conditions or other practicalities dictate. However, where this discretion is applied, it should be included in the budget report, with appropriate explanation.
- 4.3 The requirement to report deviations from a CPI uplift does not include immaterial adjustments to allow for the use of rounded amounts for the convenience of end users or for other practical considerations.
- 4.4 Proposals for new fees and charges must be considered within the annual service and financial planning processes or, where necessary, submitted to Cabinet for approval as an in-year change.
- 4.5 Reasonable notice should be given to service users to consult on the fees, before any new charge or significant change is implemented, together with clear advice on any discounts or concessions that will be available. It is likely that such changes will also be subject to the requirement to do an Equality Impact Assessment (EqIA) with guidance provided via the Council's Equalities Intranet page.
- 4.6 The effects of any new (or substantially revised charges) on service usage and income generated should be monitored regularly over the first 12 months and reviewed within the framework of the next service and financial planning cycle.
- 4.7 Appendix 2 sets out the overall planning and budgeting process and the relevant timescales for the review of fees and charges.

## **5 In Year Changes**

- 5.1 Given the uncertain nature of the economy, the need for price changes later in the year cannot be ruled out. If officers judge that limited changes are needed to respond to operational issues and the changing market, the services will need the flexibility to do so in a timely manner. Also, officers are well aware of the need to investigate opportunities to offer incentives that will encourage greater use of services and therefore increase overall income generated.
- 5.2 Possible changes might include the introduction of promotions to stimulate demand as necessary, making offers for limited timescales or linking two services, for example, if you pay for a birth certificate, a naming ceremony comes at a discount. They might include offering discounts at a country park for people who have purchased another service, or discounts on certain goods to people who subscribe as friends of that service. Such discounts and promotions will need to rest with the service to introduce as part of being market-led and responsive.
- 5.3 The Budget Report where the annual charges are agreed will seek to delegate authority to approve any fee increase from the levels set within the report in year, up to a maximum of a 10% increase for any individual fee or a maximum of £50 increase, to the

relevant director responsible for the service at the time, in consultation with relevant Cabinet member and the S151 Officer.

## **6 Responsibility and recording**

- 6.1 Directorates have the responsibility for reviewing, calculating, consulting and updating the fees and charges in accordance with the annual fees and charges cycle. It is expected that all fees and charges are in line with and form part of the directorates' income generating strategy and this supports the Council's wider plans. The practicalities of fee invoicing and collection are deemed to be inclusive to the fee setting, consultations and approval.
- 6.2 Directorates will have the appropriate delegated powers to act in accordance with the Council's Constitution and within the current statutory legislation. If there are any doubts it would be advisable to contact democratic support and legal services.
- 6.3 The annual cycle flowchart sets out the steps to follow to meet the publication and final approval of the annual fees and charges by the Cabinet in February.
- 6.4 In conjunction with the annual budget cycle and Medium Term Plan (MTP) monitoring, finance will maintain a central record of all the Council's fees and charges. It is the directorates' responsibility to update finance with any changes and ensure that the data held is accurate and up to date.

## **Appendix 1 -Local authority legislation**

### **The Localism Act 2011**

Section 1 of the Act provides for a general power of competence for local authorities in England, giving them the power to act in the same way as an individual can, and allowing for innovative thinking when doing so. The Act also allows authorities to charge for, and trade in, services offered under the general power, in line with the powers already available to them under sections 93 and 95 of the Local Government Act 2003. However, authorities cannot trade in services that they already have a statutory requirement to provide, but may charge enough to recover costs for discretionary services.

Section 5 gives a wider power to the Secretary of State to remove or change any statutory provisions that prevent or restrict the use of the general power, and to remove similar provisions that overlap with the general power. The clause also allows the Secretary of State to restrict what local authorities can do under the general power, or to provide conditions.

The Localism Act includes a 'general power of competence'. It gives local authorities the legal capacity to do anything that an individual can do that is not specifically prohibited; they will not, for example, be able to impose new taxes, as an individual has no power to tax.

The new, general power gives councils more freedom to work together with others in new ways to drive down costs. It gives them increased confidence to do creative, innovative things to meet local people's needs. The general power of competence does not remove any duties from local authorities - just like individuals they will continue to need to comply with duties placed on them. The Act does, however, give the Secretary of State the power to remove unnecessary restrictions and limitations where there is a good case to do so, subject to safeguards designed to protect vital services.

Similar powers have been given to Fire and Rescue Authorities, Integrated Transport Authorities, Passenger Transport Executives, Combined Authorities and Economic Prosperity Boards.

### **Local Government Act 2003**

The Local Government Act 2003 (the 2003 Act) provides a general power to charge for discretionary services. It has a number of key features:

- Authorities are under a duty to ensure that, taking one year with another, the income from charges do not exceed the costs of provision.
- Authorities must already have the power to provide the service.
- The recipient of the discretionary service must have agreed to its provision and to pay for it.
- It does not apply to services which an authority is mandated or has a duty to provide at no extra cost.
- Charges may be set differentially, so that different people are charged different amounts.
- Authorities are not required to charge for discretionary services. They may provide them for free if they so decide.

To be able to make use of the power to charge for a discretionary service, authorities must have an existing power to provide that service. Under ordinary legal principles, an authority has power to do anything reasonably incidental to its express powers. In circumstances where an authority wishes to charge, for example for works or supplies, the authority will need to satisfy itself that the enactment which authorises provision of a particular service would also permit the provision of anything reasonably incidental to that service. Where an authority is relying on subsidiary powers under section 111(1) of the Local Government Act 1972 to authorise the provision of a service to facilitate the discharge of a specific function, then the authority may charge under section 93(1) of the 2003 Act for that function related service by virtue of the dis-application at section 93(7)(a) of the 2003 Act.

### **Local Government Act 2000**

Local Authorities have wide powers to provide discretionary services including powers in the Local Government Act 2000 (section 2) to do anything they consider likely to achieve the promotion or improvement of the economic, social and environmental wellbeing of their areas. For the purposes of the power to charge in the 2003 Act, the prohibition on raising money in relation to their power to promote wellbeing is to be disregarded. This dis-application of the prohibition on raising money fulfils the commitment to provide a general power to charge for services provided under well being.

### **Local Authority (Goods and Services) Act 1970**

Local authorities are enabled to trade with other local authorities and designated public bodies for the supply of goods or materials; provision of any administrative, professional or technical services; use of any vehicle plant or apparatus including appropriate staff; works of maintenance in connection with land or buildings. Under this act, authorities can make a profit on services, if sold to another local authority, but are not allowed to trade with private sector or individual customers for profit.

## Appendix 2 - Fees and charges planning flowchart

