

POLICY AND RESOURCES COMMITTEE - 5 DECEMBER 2022
COUNCIL – 13 DECEMBER 2022

PART I - NOT DELEGATED

**11. DISCRETIONARY FEES AND CHARGES 2023/24
(DoF)**

1. Summary

- 1.1 The Council regularly reviews the level of fees and charges set for discretionary services and services where charges are set locally. Fees and Charges were last reviewed in Autumn 2021 with the latest charges introduced from 1 April 2022.
- 1.2 Where the Council has discretion over the fee or charge, the Council aims to recover the full cost of delivering the service. As such, fees will usually increase in line with cost pressures.
- 1.3 A schedule of proposed fees and charges effective from 1 January 2023 is set out in Appendix 1 and a schedule of fees and charges effective from 1 April 2023 is set out in Appendix 2.

2. Details

- 2.1 Since fees and charges were last reviewed in Autumn 2021, there has been a significant increase in the cost of delivering services, including those where a charge is made for both statutory and discretionary services.
- 2.2 The latest Budget Monitoring Report to Policy and Resource Committee sets out the inflationary pressures across pay and utilities which are driving an increase in net expenditure of £1.114m (£0.556m reported in Quarter 1 and £0.558m reported in Quarter 2).
- 2.3 As these cost pressures have arisen in the current year and were not factored into the calculations for 2022/23, the review of charges has been brought forward with a proposal for the majority of fees to increase from 1 January 2023 (set out in Appendix 1). The exception to this is licencing fees where there is a requirement to advertise the change in fees. For these fees, it is proposed to increase from 1 April 2023 (set out in Appendix 2).

3. Options and Reasons for Recommendations

- 3.1 Cabinet is recommended to recommend to Council to adopt the proposed fees and charges for 2023/24.
 - 3.1.1 Sub bullet point if required.

4. Policy/Budget Reference and Implications

- 4.1 The recommendations in this report are not within the Council's agreed policy and budgets.

5. Financial Implications

- 5.1 The increase in fees and charges is forecast to generate additional income of £0.350m in 2023/24. This will help to manage increased cost of service provision due to inflationary pressures during 2022/23. Increased income from revised fees and charges introduced from January 2023 will also help to reduce the budget pressure reported in 2022/23.

6. Legal Implications

- 6.1 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.
- 6.2 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.
- 6.3 There are specific powers to charge for services detailed throughout local government legislation as set out below:
- 6.4 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 which the Council is required to have required to.
- 6.5 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.
- 6.6 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.
- 6.7 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.
- 6.8 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.

6.9 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.

6.10 Finally, where the introduction of new/alterd 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.

7. Equal Opportunities Implications

7.1 The Equality Impact Assessment Relevance Test is attached at Appendix 3.

Has a relevance test been completed for Equality Impact?	Yes
Did the relevance test conclude a full impact assessment was required?	No

8. Staffing Implications

8.1 There are no staffing implications arising from this report

9. Environmental Implications

9.1 There are no environmental implications arising from this report

10. Community Safety Implications

10.1 There are no community safety implications arising from this report

11. Public Health implications

11.1 There are no public health implications arising from this report

12. Customer Services Centre Implications

12.1 There are no customer services centre implications arising from this report

13. Communications and Website Implications

13.1 The revised Fees and Charges, effective from 1 January 2023 and 1 April 2023 will be advertised on the Council's website and relevant service information.

14. Risk and Health & Safety Implications

14.1 The Council has agreed its risk management strategy which can be found on the website at <http://www.threerivers.gov.uk>. In addition, the risks of the proposals in the report have also been assessed against the Council's duties under Health and Safety legislation relating to employees, visitors and persons affected by our operations. The risk management implications of this report are detailed below.

14.2 The subject of this report is covered by the finance service plan(s). Any risks resulting from this report will be included in the risk register and, if necessary, managed within this/these plan(s).

Nature of Risk	Consequence	Suggested Control Measures	Response <i>(tolerate, treat, terminate, transfer)</i>	Risk Rating <i>(combination of likelihood and impact)</i>
Inaccurate estimates of fees and charges income and / or estimates of cost of delivering chargeable services	A budget pressure is created due to income shortfalls or increased expenditure	Budget levels realistically set and closely scrutinised	Fees and charges, including and surplus or loss are monitored through budget monitoring	4

14.3 The above risks are scored using the matrix below. The Council has determined its aversion to risk and is prepared to tolerate risks where the combination of impact and likelihood scores 6 or less.

Very Likely	Low	High	Very High	Very High
	4	8	12	16
	Low	Medium	High	Very High
	3	6	9	12
Likelihood	Low	Low	Medium	High
	2	4	6	8
Remote	Low	Low	Low	Low
	1	2	3	4
Impact				
Low -----> Unacceptable				

Impact Score

- 4 (Catastrophic)
- 3 (Critical)
- 2 (Significant)
- 1 (Marginal)

Likelihood Score

- 4 (Very Likely (≥80%))
- 3 (Likely (21-79%))
- 2 (Unlikely (6-20%))
- 1 (Remote (≤5%))

14.4 In the officers' opinion none of the new risks above, were they to come about, would seriously prejudice the achievement of the Strategic Plan and are therefore operational risks. The effectiveness of the management of operational risks is reviewed by the Audit Committee annually and financial risks are reported to each meeting of the Audit Committee.

15. Recommendation

15.1 That:

- Council is recommended to approve the Fees and Charges set out in the schedule at Appendix 1 to be effective from 1 January 2023
- Council is recommended to approve the Fees and Charges set out in the schedule at Appendix 2 to be effective from 1 April 2023

Report prepared by: Hannah Doney. Head of Finance

Data Quality

Data sources:

Fees and Charges schedule 2022/23

Data checked by:

Hannah Doney. Head of Finance

Data rating:

1	Poor	
2	Sufficient	
3	High	✓

Background Papers

APPENDICES / ATTACHMENTS

- Appendix 1 – Discretionary and Locally Set Fees and Charges effective from 1 January 2023
- Appendix 2 - Discretionary and Locally Set Fees and Charges effective from 1 April 2023
- Appendix 3 – Equality Impact Assessment relevance test