

WYRE FOREST DISTRICT COUNCIL

CABINET
15th MARCH 2011

Charging for Discretionary Services

| OPEN | |
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| SUSTAINABLE COMMUNITY STRATEGY THEME: | Economic success shared by all |
| CORPORATE PLAN AIM: | A Well-Run and Responsive Council |
| CABINET MEMBER: | Councillor A T Hingley |
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| APPENDICES: | Appendix 1 – Charges for Discretionary Services |

1. PURPOSE OF REPORT

- 1.1 To recommend the introduction of Charging for some Discretionary Services.

2. RECOMMENDATION

The Cabinet is asked to APPROVE:

- 2.1 The introduction of charges for discretionary services as detailed in the appendices to this report.**

3. BACKGROUND

- 3.1 As part of the approval of the financial strategy by Council on the 23rd February 2011, the Cabinet is now delegated to deliver additional income from fees and charges of £20,000 in 2011/12 rising to £50,000 in 2012/13 and £100,000 in subsequent years. This will be achieved through such steps as introducing charges where none are made at present and increasing charges faster than the average increase that is applied on an annual basis.
- 3.2 The options which are available for charging and trading for services in the context of budget pressures and ensuring value for money in the public sector are wide ranging. Many authorities see that setting charges for discretionary services is the only way to ensure the future viability of services.
- 3.3 All local authorities are reviewing their budget position in light of the Government's efficiency agenda and working on ways to manage with less budget as well as making difficult decisions about service provision. There is an inevitable tension between the wish to continue to provide a wide range of high quality services in an increasingly complex environment and maintaining service delivery in a climate of financial cuts of between 20 and 40%.

- 3.4 A study from Deloitte about charging by councils in Worcestershire provides useful background information about comparative level of charges within the county and compared to national figures. Comparisons do not fetter the council's discretion: subject to any statutory limits that exist in some cases (for example, not being allowed to make a surplus on charging for a particular activity), the council can set fees and charges as it wishes. The full study identifies that:
- compared to other districts in Worcestershire, there is a small number of areas where Wyre Forest doesn't charge for a service but other districts do;
 - among the Worcestershire authorities, Malvern Hills, Worcester and Wyre Forest generally have the highest charges locally. For example, over 40% of Wyre Forest's charges are in the top quartile within Worcestershire;
 - however, compared to the wider national picture, the pattern in Wyre Forest is generally in line with the national average.
- 3.5 A recent report by BDO (A perfect storm: revenue and charging) found that the majority of councils are considering increasing charges over the coming period. A survey of the public indicated that 56% felt it was fair to charge for certain services providing this money helps protect other services. Almost a fifth felt that councils should charge a lot more for services than they do at present and use the money to cut council tax. The Council's budget freezes council tax for 2011-12 but thereafter assumes increases of 2.5% a year. Increased revenue from charges will help in a modest way to make good some of the 29% reduction in Government grant over the next two years.
- 3.6 Charging more for users of particular services enables the range of services that the council provides to be sustained. An example below illustrates this further:-

A case study of subsidy of services by council tax payers - playing fields

We provide 14 football pitches which are hired about 570 times in a season and two bowling greens which are hired about 80 times a year. Total cost is £234k and we achieve income of £27.5k (less than 12% cost recovery). The hiring fee varies from about £28 to £66 per pitch. **For each of the approximately 650 hirings, the cost to the hirer is about £42 but the cost to council taxpayers is about £318.**

There is anecdotal evidence of football leagues from other areas holding their matches in Wyre Forest, suggesting that our charges are lower than they should be and that local taxpayers are subsidising residents of other areas.

While full cost recovery is unlikely to be achievable, there is scope for significantly more income to be generated. (In this service, other options to reduce operating costs are being considered such as transferring playing fields to sporting or community groups or ceasing to maintain some of them as formal pitches.)

4. KEY ISSUES

- 4.1 There are some things a local authority can not charge, because legislation explicitly says a charge cannot be made. Examples include domestic refuse collection. There is a range of specific powers which enable charging. The most important of these is Section 93 of the Local Government Act 2003 which gives a specific power to charge

for discretionary services where "the Authority is *authorised*... to provide a service" but not under a duty to provide it and the person receiving the service has agreed to its provision.

Charging for Discretionary Services - Section 93, Local Government Act 2003

- 4.2 If an authority wishes to make a charge under section 93 it will also be necessary to identify the power to provide the service as well. Examples of where this power can be used relate to leisure services, parks and countryside facilities, museums, galleries, theatres and concert halls. It is already used to charge for advisory services, for example in relation to planning advice. The well-being power in the Local Government Act 2000 can also be helpful in making a link between a specific statutory power and section 93.

Calculating the Charges

- 4.3 There is a restriction on the amount of charge which can be levied under section 93, to the effect that taking one financial year with another, income should not exceed the cost of provision. Although the recovery period has been recognised as three years, there is flexibility in the legislation about how the costs are calculated. Costs would normally be assessed in accordance with best value accounting methods and Government guidance but can include all overheads including corporate and democratic core costs and the cost of assets required to deliver the service. It is also worth remembering that charges could be set at different levels for different people. It would be quite lawful to charge nothing for some beneficiaries of the service and a higher charge for others, and this possibility is reflected in the fees and charges strategy that appears earlier on the Cabinet's agenda.
- 4.4 This is therefore an extremely useful power which can be used flexibly. Before embarking on this route, an authority needs to ask itself:
- What is its power to undertake the activity?
 - Is another charging power available? If so reliance cannot be placed upon section 93.
 - Is there a prohibition on a charge being levied?

Care however needs to be taken in the exercise of the well-being power given the LAML judgment *R (on the application of Risk Management Partners Ltd) v Brent London Borough Council* [2009] EWCA Civ 490. As always an effective audit trail will be required spelling out why the Council wishes to make a charge, to whom and why.

- 4.5 Having considered options where early progress can be made, appendix 1 sets out proposed new or increased charges.
- 4.6 Following the Cabinet's decision on 15th February, charges have already been agreed for licences for markets or car boot sales, based on cost recovery.

5. FINANCIAL IMPLICATIONS

- 5.1 The budget included a proposal to generate additional income from charging for discretionary functions. The assumed income associated to this proposal was £20,000 pa during 2011/12 increasing to £100,000 by 2013/14. The proposals identified within Appendix 1 are estimated to generate income of £18,250 against the £20,000 target.

6. LEGAL AND POLICY IMPLICATIONS

- 6.1 The legal background is addressed in section 4.
- 6.2 There is also the prospect of a new general power of competence in clause 1 of the Localism and Decentralisation Bill that could further broaden our powers to charge. If appropriate a further report will be brought in due course.
- 6.3 The proposed new fees and charges have been calculated in accordance with the fees and charges strategy that is on the Cabinet's agenda, with justification set out for any discount or exemption.

7. EQUALITY IMPACT NEEDS ASSESSMENT

- 7.1 Full impact assessments have been carried out and do not reveal any adverse impacts on particular groups or individuals.

8. RISK MANAGEMENT

- 8.1 Without the introduction of charges, some non-mandatory services may need to be discontinued.

9. CONCLUSION

- 9.1 The continued viability of some discretionary services requires the introduction of user charges.

10. CONSULTEES

- 10.1 Corporate Management Team.

11. BACKGROUND PAPERS

- 11.1 Financial strategy 2011-2014 – Paragraph 3.6
- 11.2 Fees and charges Strategy – agenda item 7, Corporate Resources Scrutiny Committee, 10th March 2011.
- 11.3 B.D.O. report – A perfect storm.

PROPOSED NEW OR INCREASED CHARGES (Effective Date for Charges 1st April 2011)

1. Introducing fees for Road Closure orders

Making Road Closure orders is a discretionary power dealt with under Section 21 of the Town Police Clauses Act 1847. Applications are submitted to the District Council for temporary road closures for a range of different purposes and events including undertaking building works, street markets, carnivals and sporting events. A variety of community and charitable events also involve road closures.

At present this service is provided free to all applicants but does involve significant legal and support services time in consultation and preparing the formal notices. There is no benefit to the Council arising from street closures. The proposed fees have been set to recover the cost of this time, as follows:

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| Charitable/community events | £100 (£75 if application received more than 6 weeks in advance of the event) |
| Remembrance Day parades | No charge |
| National Royal Celebrations | No charge (Reason: to foster the holding of appropriate celebrations in Wyre Forest) |
| All other events/reasons for road closure, including commercial events | £125 (£100 if application received more than 6 weeks in advance of the event) |

The discounts are to encourage forward planning by those requesting street closures and to recognise the benefit for communities and charities of holding certain events. An exemption is proposed for Remembrance Day parades so that there is no cost to communities honouring those who have died in war or on active service.

The estimated income is based on the number of applications received in previous years and will be subject to fluctuation.

Organisations that have not previously paid for services will have to allow for the cost in their budgets, including Town and Parish Councils & Charitable organisations. Potential income: £2k a year, £2.5k in 2012-13 (Diamond jubilee).

2. Introduction of charges for temporary dispensations from parking restrictions

At present we issue about 200 dispensations a year for free, for example for a builder's lorry collecting debris, a cement mixer delivering cement or a glazier fitting windows to remain at that location while work is completed. Charges have been introduced by Worcester City Council and allow a vehicle to be parked at a specific location for a period of from one to 7 days, where ordinarily it would not be permitted. There has to be a reason for allowing the dispensation other than simple convenience.

Proposed charge: £35 for each application for any period of up to 7 days.

Potential income: £7k a year.

3. Charges for various events that receive support from street scene and parks

Examples include provision of additional temporary toilets and paying someone to lift the bollards to let vehicles into Kidderminster town centre. It is proposed to make a charge for this based on cost recovery at £28.75 per hour for officer time.

In addition procurement of a call off contract for some facilities such as portable toilets will be investigated. Current charges are £40.00 + VAT per single WC unit (minimum 3), £100.00 + VAT per single wheelchair access unit and £350.00 + VAT per trailer cabin unit (separate ladies and gents rooms). All prices include delivery, set up and collection. If the Council continues to arrange such provision, these costs will be passed on in full.

Potential Income: £250.00.

4. Street naming and numbering

When new developments are constructed, the Council is approached to administer the naming of the street and the numbering of the new properties. It is proposed that the following charges are applied:

New Developments:

- £200 per new street
- £100 per new premise (for the first new premise) + £20 for each additional premise
- £50 per block of flats

Existing Developments:

- £200 per renamed street + £50 for each premise on the street
- £100 per existing premise to be renamed or renumbered (for the first new premise) + £20 for each additional premise
- £50 per block of flats renamed or renumbered

Income: £5,000.

5. Private water supplies

There is a new legal requirement to charge to monitor private water supplies and Council can charge to recover costs involved in investigating sources and for laboratory analysis.

Proposed charges:

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| Risk Assessment | £40/hour (up to £500 max) |
| Investigation | £40/hour (up to £100 max) |
| Granting an authorisation | (£100 max) |
| Analysing samples | (Regio Small Supplies) £25 max |
| | (During check monitoring) £100 max |
| | Taken during audit monitoring £500 max) |

Approximately 12 supplies may require investigation and full audit

Approximately 60 supplies may require risk assessment and investigation

Estimated income: £4k in 2011-12, thereafter £1.5k.

6. Financial Summary of proposals

| Area of Charge | Estimated income 2011/12 £ | Full year income £ |
|--|---------------------------------------|-------------------------------|
| Road closure orders (*) | 2,000 | 2,000 |
| Temp dispensations from parking restrictions | 7,000 | 7,000 |
| Support for events | 250 | 250 |
| Street naming and numbering | 5,000 | 5,000 |
| Private Water Supplies | 4,000 | 1,500 |
| Total | 18,250 | 15,750 |

(*) – estimated to be £2,500 for 2012/13