

**CABINET**  
**24 SEPTEMBER 2015****SELF-SUFFICIENT COUNCIL – INCOME FROM SALES,  
FEES & CHARGES**

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**Relevant Cabinet Member**

Mr A I Hardman

**Relevant Officer**

Chief Financial Officer

**Recommendation**

- 1. The Cabinet Member with Responsibility for Finance recommends that Cabinet:**
  - (a) notes the report;**
  - (b) agrees the charging principles in relation to executive functions as shown in paragraph 12 and 19;**
  - (c) agrees to fully review the policy at the start of each new Council (every 4 years); and**
  - (d) agrees to delegate the annual review of charging under this policy to the Cabinet Member with Responsibility for Finance.**

**Background**

- 2. The Council continues to provide a wide variety of services to the public with good customer satisfaction. The majority of these services are free at the point of delivery. However, in some cases the law allows or requires a charge or contribution to be levied on the recipient. The Council has worked hard to minimise the cost of services that are passed on to residents.**
- 3. The proportion of the Council budget funded by central government has reduced in recent years, with a subsequent movement away from reliance on Central Government funding. The Council has made savings just short of £100 million in savings and efficiencies since it commenced its Better Outcomes Lean Delivery (BOLD) programme in 2009. There is an anticipated annual requirement to achieve £25 million savings and efficiencies in future years.**
- 4. The Council has a duty to balance the budget within its limited financial envelope and as a result is reviewing its ability to be self-sufficient. The review will include maximising income received from sales, fees and charges with regard to ensuring that the full costs that go into the delivery of these valued services are recovered.**

5. Income from sales, fees and charges is a complex area and is a significant proportion of the Council's budget, with £64.7 million generated in 2014/15. The Council regularly completes benchmarking with other local authorities of income received through income diagnostic reports which have been discussed by the Audit and Governance Committee over the last year. The reports have confirmed that fees and charges are collected through legal frameworks and when people have been assessed as able to contribute towards services. In charging people under these legal frameworks, the impact on the remainder of council tax payers is minimised.

6. Income can range from a number of sources from "selling" services to other organisations to charging individual members of the public for services. The table below indicates the major sources of income received in 2014/15:

<b>2014/15 Income</b>	<b>£m</b>
<u>Service users of Adult Social Care</u> Income from people in residential and nursing homes, those in receipt of home care, transport and day services	21.1
<u>Parental Contributions/Charges to Pupils/Bishops Wood</u> Income from school meals and catering, contributions to educational trips, home to school transport, music charges, donations, extended school fees, gypsy services,	11.8
<u>Fees to Businesses/Other organisations</u> Fees for professional services eg Human Resources, Property Services, Financial Services, ICT, Highways/Infrastructure recoverable costs	30.3
<u>Fees to residents for Other Services</u> Income from Libraries, Registration and Ceremony fees, Museums,	1.5
<b>TOTAL</b>	<b>64.7</b>

7. There are a number of areas governed by law which give clarity on what can and cannot be charged for. The Care Act 2014 does not place a duty on local authorities to charge for adult social care, but gives power to charge for residential, nursing and non-residential services. Cabinet on 5 February 2015 resolved to continue charging for adult social care services, but there is guidance within the Care Act that limits the charges that can be made. Service users receive a financial assessment to ensure that they are only charged that which they are assessed as having the ability to pay. The Council currently charges on the basis of full cost recovery and charges are not subsidised. There is therefore no scope for increasing charges in this area.

8. Charging for children's social care is subject to legislation contained in the Children Act 1989 where councils are able to charge a contribution from parents "where reasonable", depending on their financial means. At its meeting on 6 March 2014, Cabinet approved the Partnership with Parents, Carers and Young People Policy. Part of this Policy aims to ensure that where parents and extended family

wish to contribute towards the care of their child they are able to do so; this would not be when a family is in crisis. The Policy also sets out some specific circumstances where parents can be asked to contribute towards the cost of certain services provided for their child, provided they are able to do so and the legislation allows it. The Policy establishes the principle that a contribution may be required from a parent, carer or young person where an assessment indicates that they have the means to make this contribution and none of the exemptions apply, and the law permits it. There is limited scope in raising income in this area.

9. The Council receives significant income from selling professional services, including services to schools. Many of these services are currently subject to the commissioning process, so the opportunities for generating additional income would be affected by the contracting arrangements with any new supplier of services. The ability for the Council to receive an element of profit / gain share on income generated by the suppliers is considered when commissioning each service on a case by case basis (see also the legal issues set out below).

10. Of the £30.3m income received from selling services, approximately £13.3m relates to areas included in commissioning programmes which mean that the services will possibly not be provided by the Council in the future. This is therefore another limiting factor in any proposals to generate additional income.

11. Whilst the scope for generating additional income is limited by a number of factors, it is essential that wherever possible the Council adopts a consistent approach which ensures residents contribute fairly to the services they receive, if the law permits it. This includes ensuring that where there is a decision to charge for services to residents, charges are not subsidised and the full cost of services are recovered where this is permitted.

12. It is recommended that the following new basic principles should be confirmed to form the basis for charging across the Council:

- apply the mandatory fee and charging structure in line with national guidelines
- identify legal or statutory reasons permitting or affecting the levy of charges
- do not charge where the costs incurred as a result of collecting a charge would be greater than the income generated
- conduct Equality Impact Assessments where charging increases may have a disproportionate impact on particular groups of service users
- optimise the balance between service provision and revenue, and recover the full cost of services where this is permitted by law
- ensure equality of access to residents and service users by deciding when and how much to charge for services
- charges to be, at a minimum, reviewed annually as an integral part of the financial planning process, to include a minimum assumption for an annual increase of RPI plus 2% to work towards full cost recovery for all services
- regularly review new areas to generate income for consideration
- only depart from these principles in exceptional cases to be agreed between the relevant Director and the Chief Financial Officer.

13. The Council will continue to review all areas of its business to confirm that where there is discretion to charge, this should be considered. Any proposal to charge

would be subject to appropriate consultation on a service area basis. The principle will be to charge adopting a full cost recovery method.

## **Legal Implications**

14. The underlying principle is that local authorities can only charge for services where the law permits it either expressly or by necessary implication. This is to prevent 'secondary taxation' of the public in addition to Council Tax precepts. There are numerous specific provisions which allow charging eg for the recipients of adult social care or some parents in relation to children's social care, subject to particular statutory frameworks and guidance. In general, local authority charges for services should not exceed the full costs of delivery and should not lead to local authorities making a profit. Trading commercially for a profit is subject to particular restrictions and generally needs to be done through a company – see below.

15. The Council may supply goods and services (including administrative and technical services) to other local authorities and specified public bodies under the Local Authority (Goods and Services) Act 1970. This can be done on a commercial basis if necessarily incidental to performing the powers under that Act. This 'trading within the public sector' is an exception to the general rule and does not need to be delivered through a company even if for profit.

16. In the absence of anything more specific, there is a general power to charge for discretionary services in the Local Government Act 2003. Charging is therefore generally available for exercising a discretionary statutory function - ie not one an authority has a duty to perform, but a discretionary power to do so, and the recipient agrees to pay the charge for the service. The income from such charges may not exceed the costs of provision from one year to the next (which allows some flexibility to 'balance the books'). Full cost recovery would be available but not trading to make a commercial profit.

17. With the same caveats, that Act gives a general power to trade commercially to make a profit from delivering discretionary statutory function-related activities but this must be done through a company (which could be entirely owned by the authority). The specific purpose of this provision is to ensure a level playing field with other commercial bodies and to be subject to the same company regulation, corporation tax and VAT provisions, which local authorities are not. The authority is under a duty to recover its full costs of providing services to such a company, so as not to distort the market through subsidy.

18. These powers to charge and trade are mirrored and slightly extended under the Localism Act 2011, allowing charges for discretionary services, and trading commercially through a company, although with no requirement to be linked to a particular statutory function and with no geographical boundaries.

## **Financial Implications**

19. The Council will ensure that full cost recovery is the methodology used for the optimising sales fees and charges.

## Equality Implications

20. The Equality Act 2010 requires the Council to have "Due Regard" to the three aims of the Equality Duty in designing policies and planning/delivering services. These aims are to:

- Eliminate unlawful discrimination. Harassment and victimisation
- Advance equality of opportunity
- Foster good community relations between people who share any of the defined Protected Characteristics and those who do not

21. The Act lists nine Protected Characteristics, but, clearly, it is highly unlikely that they will all be of relevance in all circumstances. The level of regard which is "due" in respect of the Duty aims should always be proportionate and is dependent on the potential of the proposed policy/action to contribute to or detract from the aims of the Duty.

22. Any changes to charging policies will be assessed for impact under the Act. This will include Privacy Impact Assessments.

## Contact Points

### County Council Contact Points

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### Specific Contact Points for this report

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## Background Papers

In the opinion of the proper officer (in this case the Chief Financial Officer) the following are background papers for this report:

Agenda and Minutes of the Audit and Governance Committee, 12 September 2014, which is available on the Council's website at:

<http://worcestershire.moderngov.co.uk/ieListMeetings.aspx?CommitteId=135>