

Fees and Charges Policy

A corporate approach to effective management of fees and charges will ensure the Council maximises commercial opportunities to generate income on the delivery of chargeable services

This Policy underpins Dorset Council's principles of setting and reviewing fees and charges as the Council moves through a programme of transformation and will be subject to review to ensure that it continues to reflect the needs and aspirations of the Council

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Introduction

As with other Local Authorities, the Council is facing continuing financial pressures following years of reduced funding and the need to generate income locally. Making the best use of the ability to generate income from fees and charges is therefore important to the Council. Of the many services provided by the Council, many are centrally funded or managed through council tax.

Being more commercially minded where fees and charges are concerned will enable the Council to be in a better place to continue to meet funding challenges. The pandemic has shown how much residents rely on the council services and has exposed further the budget constraints on delivery of services, the revenue from fees and charges is therefore essential to sustain future delivery.

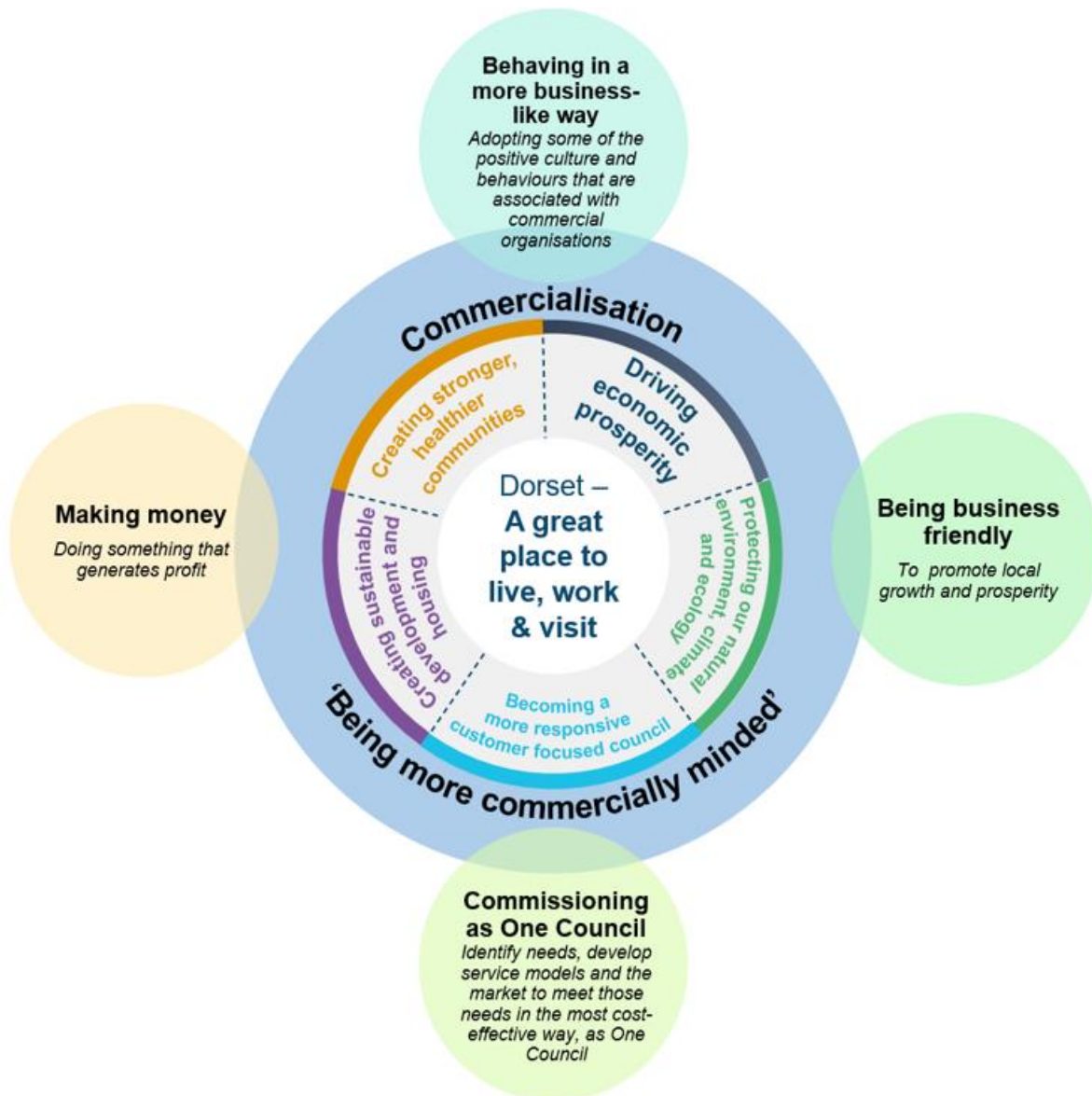
The purpose of this Fees and Charges Policy is to provide a consistent approach in setting, monitoring, and reviewing fees and charges, and applies to fees and charges for discretionary services and trading activities across the Council. This Policy specifies the processes for fees and charges, and provides what factors need to be taken into consideration when charges are initially set and consequently reviewed annually.

A corporate approach to commercial activity in terms of setting fees and charges ensures that chargeable services represent best value to the residents of the Council's local authority area. It supports the focus of the Corporate Plan of Dorset Council to make Dorset a great place to live, work and visit, priorities being:

- Protecting our natural environment, climate and ecology
- Creating stronger, healthier communities
- Creating sustainable development and housing
- Driving economic prosperity
- Becoming a more responsive, customer focused council

Being More Commercially Minded

The term **“Being more commercially minded”** and other terms such as commercialism, commercial, commercialisation etc mean different things to different people. The Council’s Commercialisation Transformation Programme defines “Being more commercially minded” as four themes of: Behaving in a more business-like way; Being business friendly; Commissioning as One Council; and Making Money. These themes are shown below as separate, but connected, workstreams that compliments the Council’s Commercial Strategy – Commissioning and Procurement in supporting the Council priorities of: Protecting our natural environment, climate and ecology; Creating stronger, healthier communities; Creating sustainable development and housing; Driving economic prosperity; Becoming a more responsive, customer focused council.



Statement

This Fees and Charges Policy sets out the policy position of the Council when it comes to fees, charges, and establishes some key principles to apply when creating or reviewing any fees or charges.

The key objectives of this Policy are to ensure that:

- all decisions on fees and charges for services and income generating activities will be taken with reference to and in support of Council priorities
- all fees and charges, and the scope for charging, will be reviewed at least annually by the Directorate concerned in consultation with Finance and Commercial as part of the budget setting process
- the full cost of delivery to be calculated and documented to enable full consideration to be given to the opportunities for improving efficiency and income from a service
- in general, fees and charges income from discretionary services should recover the full cost of delivery, except where:
 - it is not appropriate to do so, for example where services provide support to service users that helps prevent the need to access more costly or complex services later therefore it is in the interest of the Council not to apply full cost recovery
 - it is prevented by government legislation to do so
- any approach to not apply full cost recovery is agreed by the relevant Executive Director in consultation with the relevant Portfolio Holder, and if necessary, with the Section 151 Officer.

Corporate Approach

This Fees and Charges Policy sets out the Council's corporate approach that will be taken on fees and charges where the Council has discretion on what charges are set for services provided.

It is corporate led to ensure that there is an overview of all fees and charges, with clear roles and responsibilities for their management in terms of setting, annual review, cost recovery, and where applicable, agreed discounts. Being corporate led ensures that Members' drive for commerciality is applied consistently across the Council.

A corporate approach to effective management of fees and charges will ensure the Council maximises commercial opportunities to generate income on the delivery of chargeable services.

Fees and Charges

The Council provides a diverse range of chargeable services such as adult care, environmental protection, harbour berthing, collection of garden waste, planning and development control, car parking, to name just a few. Fees and charges reflect officer skills needed for to deliver these high value services.

The Council receives fees and charges also from a diverse range of users that include large organisations and individual residents. This revenue is either a result of fees and charges under statutory powers (set by government) or discretionary (set by the Council)

When fees and charges are implemented, service users pay some, or all, of the cost of delivery. But when no charges are made, council taxpayers in general are subsidising the cost of delivery – potentially at the expense of the provision of another essential service to other Council residents. Fees and charges for services are therefore considered individually, taking into account local circumstances, such as market conditions and service users.

All decisions on fees and charges for services and trading activities should support the delivery of the Council's priorities and to be approved by the relevant Executive Director, in consultation with the relevant Portfolio Holder, and if necessary, with the Section 151 Officer and recorded as delegated decisions, as appropriate.

The Localism Act 2011 introduced the General Power of Competence (GPC) which permits councils to charge for Discretionary Services (non-statutory services) at a level that recovers the cost of delivery. This however does not permit a local authority to charge for any services rendered to an individual for which it has a statutory duty to provide unless legislation permits a specific charge to be made.

Types of Fees and Charges

The decision on any level of fees and charges should be transparent and open to scrutiny.

It is recognised that it will not always be appropriate to seek to recover the full cost of delivery, including relevant amount of organisational overhead, but should be set as a subsidised, or concession, or nominal charge. However, such decisions should be subject to prior approval by the relevant Executive Director, in consultation with the relevant Portfolio Holder, and if necessary, with the Section 151 Officer. An example of not applying full cost recovery is where services provide support to service users that helps prevent the need to access more costly or complex services later therefore it is in the interest of the Council not apply full cost recovery.

There are a range of different types of charges against different types of services, supported by individual objectives which, for the purpose of this Policy, fall across the following:

- Statutory Services
- Discretionary Services
- Commercially Trading Discretionary Services

Statutory Services <i>Services that the Council has a duty to provide. Fees and charges set nationally</i>	
Type	Objective
Statutory	Charges are set by legislation
Statutory prohibition	No charges can be made against these services

Discretionary Services

*Non-statutory services that the Council is not obliged to provide. Fees and charges set by the Council.
Must not generate a surplus*

Type	Objective
Full Cost Recovery	The Council wishes to make the service generally available but does not wish to allocate resources to the service. All costs fully recovered.
Subsidised	<p>The Council believes access to the service should be widely available and is prepared to subsidise the service to ensure target groups have access.</p> <p>Could also be due to adverse impact a full cost recovery or commercial charging policy would have on other council services.</p> <p>Funding support will come from the revenue budget, meaning council taxpayers are subsidising this service.</p>
Concession	<p>The service should be widely available, with users of the service making some contribution from their own resources, but not to the full value of cost recovery. For example, organisations whose purpose is to assist the Council in meeting specific objectives in its priorities and policy framework, or which contribute to the aims of local partnerships in which the Council has a leading role.</p> <p>The funds to make up the difference are not from revenue budget and might instead come from grant funding or other fundraising.</p> <p>Concessions might also be applied as a temporary discount by generating less income in the short term but linked to a better outcome, e.g., encourage growth of a new product, increase overall uptake, in the future.</p>
Nominal	The Council wishes the service to be fully available but sets a charge to limit inappropriate or over-use of services that would otherwise be Fully Funded.
Fully Funded	Fully Funded services are free for service users as they are funded by the Council. As these services present a direct and full cost to the Council, knowing their value is critical.

Commercially Trading Discretionary Services

Discretionary services provided as a commercial trading activity. The power to trade permits an authority to generate a surplus provided the activity occurs under a trading model, e.g., Local Authority Trading Company (LATC). Fees and charges set by the Council taking into account competitor pricing, demand, and the Council's market position

Type	Objective
Full Commercial	The Council seeks to maximise revenue within an overall objective of generating surplus as large as possible from this service. Full cost recovery model.
Commercial with Discounts	As above, but with discounted concessions being given to enable disadvantaged groups to access the service. Full cost recovery model.
Constrained Commercial (Full Cost Recovery)	The Council seeks to maximise income but is subject to a defined constraint – policy, competition, commitment to service users, political. Full cost recovery model.

Charging for Discretionary Services

Where the Council provides a service that goes above the statutory requirement, that additional provision may be charged for as a discretionary service.

When setting fees and charges, the following should be considered:

1. Service users must have agreed to receive and pay for the service
2. Charges may be set differentially, allowing people to be charged different amounts
3. The income must not provide an overall surplus to the Council
4. Horizon scan other Local Authorities fees and charges
5. The market in which services are operating
6. Any market changes and whether the services need to be adapted to reflect changes
7. Introducing a new chargeable service, will require an Equalities Impact Assessment to identify and consider any impact on vulnerable groups.

The Council's position is that charges for discretionary services are to be set at the appropriate level to fully recover their costs of delivery unless there is a specific decision by the relevant Director, in consultation with the Section 151 Officer, to subsidise the service provision for policy reasons. Where setting a charge to recover full costs of delivery would lead to a negative impact on vulnerable groups, any discounts must be prior agreed with the relevant Executive Director, in consultation with the relevant Portfolio Holder, and if necessary, with the Section 151 Officer.

Full Cost Recovery as Standard

For charges to cover the actual cost of providing the service, including support services' charges and other overheads, the true cost of service delivery should be calculated, taking into account all aspects of service provision. When estimating the cost of providing a service, the previous year's actual results (in terms of activity levels and expenditure) must be considered.

What to Consider When Calculating the Cost of Delivery		
Cost arising as a direct result of the service being delivered		
Staff hours / salaries (incl.NI and pension contributions)	Employee travel	All materials and equipment needed to deliver the service
Indirect costs required to deliver the service		
Facilities (Energy costs, routine maintenance, repairs)	Corporate support services (Finance, HR, IT, etc)	

The overheads required to deliver the services can be estimated based on the previous year's internal charges plus an inflationary uplift. Consult with Finance and Commercial for support with these estimates. The cost areas quoted in the above table may need to be broken down into variable and fixed costs to model how, for example, the cost of delivery varies with the level of service demand. Where costing assumptions are made based on variables such as increased usage, this should be evidenced by an action plan detailing how this will be achieved.

Agreed Discounts

Price sensitivities of individuals and groups should be understood so that charges can be set appropriately to deliver the level of services necessary to achieve objectives.

Any discretionary service that wishes to offer a discount from the full cost recovery position requires a business case. An accurate cost of delivery will therefore be required so that the business case contains accurate financial figures and the true cost of agreeing a discount option is understood.

Business cases detailing the rationale for a discount should consider:

- Any relevant Council priorities, strategies, policies, or objectives
- The need for all charges to be reasonable and able to withstand criticisms and legal challenges
- The level of proposed discount and the service's ability to afford it
- Access to and impact on users, including the level of choice open to customers as to whether they use the Council's services
- Whether the subsidy will target all users though the standard charge being set below full cost recover or will target specific sub-groups of users

Charges may be set differentially, so that different users are charged different amounts, however, this is not intended to lead to some users cross-subsidising others. The costs of offered a service at a reduced charge should be borne by the Council rather than other recipients of the service. Approval for any discounts should be obtained from the relevant Executive Director, in consultation with the relevant Portfolio Holder, and if necessary, with the Section 151 Officer.

If an Agreed Discount cannot be approved, the full cost of recovery must be charged. If a service is not viable when charging at that level, it is appropriate to review whether the service should continue to be provided.

Portfolio Approach

While income from fees and charges should not generate an overall surplus, in some instances, services may wish to look at the income from all their products combined and take a “portfolio approach.” This would allow some products to be offered at a loss, with the desired overall cost recovery position achieved from other products from within the same service that are priced more commercially. Equally, where it is not appropriate or cost effective to calculate the cost of delivery at an individual user level, charges may be set so that there is an overall full cost recovery from the delivery of a product or service.

Administration and Notification of Charges

Once set, Heads of Service must apply fees and charges to all service users.

Service users should be aware in advance that a fee is payable, and the level of the fee. This means all charges must be published on the Council’s website and at any point of sale.

The Council is required to charge VAT to service users where the product or service being supplied is subject to VAT. Service users that are either exempt from or able to claim back VAT and request a quotation exclusion of VAT, are an exception.

The most economic, efficient, and effective method of income and debt collection should be used and must comply with the requirements of Financial Regulations. When collecting fees and charges income, services should use the most cost-effective method available, i.e., online or with card, thus minimising the use of cash and cheque payments and invoicing as a method of collection wherever possible.

Payment should, wherever possible, be taken in advance. If collection in arrears is necessary, invoices should be issued promptly and clearly. Additionally, an allowance for cost recovery and bad debt write-offs should be included in calculations when setting any charges that are collected in arrears.

Central Schedule of Fees and Charges

Financial and Commercial shall maintain the central Schedule of Fees and Charges. All fees and charges (including subsidies, waivers, and exemptions) must be identified, not just discretionary ones.

The central Schedule of Fees and Charges will be updated annually by Financial and Commercial, with the business areas concerned, and clearly include the date on which it was last revised. The Schedule to be published, as it is updated, on the Council’s website.

Regular Price Reviews

Reviews to be conducted annually for all services fees and charges in time to inform the budget setting process.

It is the responsibility of all Heads of Services to ensure that these reviews are undertaken by service areas that offer chargeable services. For business planning purposes, the standard assumption is that all fees and charges will be increased each year based on a reasoned and careful consideration of the level of inflation to be applied. Although charges within the same service area may need reviewing at separate times in the year. Annual reviews should consider the following factors:

- Inflationary pressures, and when a flat rate uplift might not be the most appropriate option due to specific changes to the cost-of-service delivery
- Service-level budget targets, with the context of council-wide targets and advice from Finance Business Partners
- Cost of administration

- Scope for new charging areas, this might be entirely new discretionary service to deliver, or existing services that are currently not charged for
- Use stakeholder engagement and comparative data, where appropriate, to ensure that charges do not adversely affect the take up of services or restrict access to services (other than where this is a desirable outcome)
- Must not generate an unlawful surplus

If a decision is taken to not increase some fees and charges the budget shortfall that this creates will need to be bridged through other operational and cost savings. Conversely, if charges are increased above inflation this can contribute to Directorate savings targets.

Service users should be given a reasonable period of notice before the introduction of new or increased charges.

To ensure cost effectiveness and efficiency when setting and amending charging levels, the following are to be considered:

- The desirability of increasing the Council's market share, particularly in fully commercial charges, e.g., temporality reducing a fee or charge in order to stimulate demand for a service, leading to increased income generation
- Obstacles to maximising full cost recover when providing the service
- Future investment required to improve or maintain the service
- If full cost recovery would require a sudden and large uplift and may reduce market share, it may be prudent to phase-in that price rise over a longer period with a temporary Agreed Discount
- The desirability of reducing the uptake of a given service, i.e., raising charges during peak times

Annual Fees and Charges Schedule Updates

The Schedule for Fees and Charges template will be circulated annually by Finance and Commercial to the relevant business areas as part of the budget planning process. It must be completed in full, to include:

- A description of the charge
- The current price of all discretionary and statutory fees and charges
- New cost of the charge with the correct inflation rate applied
- Whether the charge is Full Cost Recovery or an Agreed Discount (or a statutory limit)

Finance and Commercial, will keep the central record of the Schedule for Fees and Charges on all service area's fees and charges for the purpose of ensuring statutory and discretionary fees are recorded accurately and set and reviewed in accordance with this Policy.

Over-Achievement and Under-Achievement of Fees and Charges

At a level deemed appropriate by the relevant service, a clear escalation process should be in place for the under – or overachievement of charges.

For an over-achievement of a charge, the simple process should be for budget holders to inform the Head of Service, the Corporate Director of the service, and the Finance Business Partner. Within the year, discussions should be then held how to use this surplus to offset any areas running an overspend within the budget/service. At the end of the year, an overachievement in charges should result in discussions on whether to amend the target of that particular fee, or charge, in line with the Council's income generation aim.

For an under-achievement of a fee or charge within a service, the budget holder, and the Finance Business Partner should attempt to mitigate an underachievement, then the Head of Service should mitigate it within their service. Failing this, the Executive Director, in consultation with the relevant Portfolio Holder, should

attempt to do the same for the Directorate before further escalating the underachievement to the Section 151 Officer should the Directorate be unable to mitigate the failure to meet an income target for any fee or charge. Again, if this under-achievement takes place at the end of the year, discussions should be held to amend to a more realistic and achievable income target.

Legislation

The following legislation stipulates what local authorities can and cannot do in respect of generating income.

Local Authorities (Goods and Services Act 1970)

Local authorities have the power to enter into agreements with each other and other certain types of public bodies for the performance of certain services.

Local Government Act 2003

1. Gives local authorities the power to charge for services on a cost recover basis.

Charging:

- Only applies to discretionary services (that has the power to provide but not a duty)
- Cannot be used where charging is specifically prohibited by other legislation
- Cannot be used where another specific charging regime applies
- Is limited to cost recovery

2. Trade in activities related to local authorities' functions on a commercial basis.

Trading:

- Most be exercised through a company which has a business plan for operation.
- Can be delivered by participating in an existing private trading venture providing that this is a company within the relevant definitions (limited partnership and limited liability partnerships are not acceptable structures for local authority trading)
- Can be used with a view to make a profit. In a company wholly owned by a local authority, profits can be returned to the authority through a dividend or service charge to hold down Council Tax or be reinvested.

The Localism Act

Local authorities' powers and responsibilities have traditionally been defined by legislation. In simple terms, *we can only do what the law says we can*. This has often led to excessive caution and in some cases inaction as local authorities are wary of doing something new. Something may be thought as an innovative idea but because there is uncertainty whether it is allowable in law, and concern about the possibility of being challenged in the Courts, it is not actioned. The Government took the view that this needs to be addressed by the Localism Act, in that the Act sets out that local authorities instead of being able to act only where the law says they can, local authorities should be free to anything as long as they do not break other laws.

The Act includes a 'general power of competence' which gives local authorities the legal capacity to do anything that an individual can do that is not specifically prohibited. Cannot, for example, be able to impose new taxes as an individual has no power to tax. This general power gives local authorities more freedom to work in new ways to drive down costs. It gives 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 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.

Other Considerations

As well as this statutory framework, local authority decision-making is also limited by certain well known principles including obligations to act rationally, fairly and to exercise powers for their proper purpose. This means that a local authority cannot use a power given to it for one purpose in order to simply generate income. It also means that in charging for discretionary services a local authority will have to have due regard to the rationality of imposing the charge and its impact on individuals as well as its ability to generate income.

There are many other important legal, commercial, and financial considerations for local authorities undertaking commercial activities, particularly through trading companies, including:

- Company law issues
- Tax liability (corporate tax and VAT)
- Procurement law
- Employment law (e.g., TUPE and pensions)

Summary

This Fees and Charges Policy has set out the Council's position when it comes to fees and charges and has established some key principles that are required to be applied.

All chargeable services are required to follow this Policy to ensure that the Council benefits from generating income from fees and charges, and fully recover costs.

The Council recognises that the context in which it operates will evolve locally therefore this Policy will need to be updated and refreshed, as necessary, to ensure that effective management of fees and charges are maintained.

This Policy underpins Dorset Council's principles of setting and reviewing fees and charges as the Council moves through a programme of transformation and will be subject to review to ensure that it continues to reflect the needs and aspirations of the Council.