



Delegated decision report

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| Committee | DECISION UNDER DELEGATED POWERS |
| Title | IMPLEMENTATION OF NEW FEES/CHARGES FOR DISCRETIONARY REGULATORY, COMMUNITY SAFETY OR HOUSING SERVICES. |
| Report of | REPORT OF THE CABINET MEMBER FOR COMMUNITY SAFETY AND PUBLIC PROTECTION |

EXECUTIVE SUMMARY

1. Under the Localism Act 2011 Local Authorities were given the power to charge for discretionary services.
2. This report proposes several new fees and charges for discretionary services that can be offered to individuals or businesses. This is on a full cost recovery rate based on average officer time in undertaking revisits along with associated cost such as car mileage or printing.
3. There is no requirement for businesses or individuals to buy services from the council however it is an option they may wish to consider as an alternative to a private contractor.
4. Fees to be commence from 1 March 2019.

BACKGROUND

5. The Isle of Wight Regulatory and community Safety Services include:
 - Environmental Health
 - Licensing
 - Trading Standards
 - Housing Renewal
 - Community Safety
6. Within this service area there are several statutory functions which:
 - regulate and licence businesses/individuals
 - protect the environment
 - protect the general public from distress, harm or unsafe goods

- ensure minimum standards are in place for housing
 - administration of housing grants.
7. With the austerity pressures facing local authorities, opportunities are being considered where the council may bring in more commercial operations to income generate by selling services which may be desired by individuals or the business sector.
 8. For the majority of discretionary services, charges may be put in place under the Localism Act 2011.

STRATEGIC CONTEXT

9. With reference to the 2017-2020 Corporate plan, the new charges support several outcomes, particularly:
 - A financially balanced and sustainable council
 - Businesses have the confidence to invest
10. The charge will ensure that a request for a non-statutory service will not impact on the statutory functions of the service.
11. The charges open opportunities for local businesses to choose between engaging with a private consultant or to purchase advice and guidance from the regulator. This in turn supports self/sector-regulation, economic growth, competition and improvement of standards in Island based businesses.

CONSULTATION

12. There is no statutory requirement to consult on this matter and therefore a consultation has not been undertaken.

FINANCIAL / BUDGET IMPLICATIONS

13. The proposal seeks to apply a charge for discretionary services based on full cost recovery of officer time in addition to additional costs such as mileage or printing. All income from this activity will be used to support the delivery of statutory services.
14. All fees are based on a full cost recovery basis using a professional officer (Grade 11E) in addition to other associated costs such as printing or mileage.
15. All fees (unless otherwise specified) will be subject to VAT.

LEGAL IMPLICATIONS

16. The power to charge for most of the proposed discretionary services is governed by section 3 of the Localism Act 2011. In some cases, specific legislation enables the charge, and these are listed below. The limitation on the power to charge is that the charges must not, taking one financial year with another, exceed the costs of provision of the scheme, i.e. the charging of a fee must not generate a profit.
17. The act sets out the limitations on the Council's ability to charge, which are:

- A service is provided on a non-commercial basis by the Local Authority to a person who has agreed to the service being provided;
 - That the service is or could be done using the general power;
 - That the local authority is not under a statutory duty to provide the service; and
 - The local authority does not have any other power to charge for the service.
18. The power to charge for a primary authority agreement is under the Regulatory Enforcement and Sanctions Act 2008, as amended by the Enterprise Act 2016. This statutory scheme enables the local authority to enter into a partnership with a business or group of businesses taking on the responsibility of providing regulatory services.
19. Regulation 8 of the Environmental Information Regulations 2004 enables the authority to put in place a reasonable charge for providing Environmental Information. This can include the time taken for staff to locate the information, time to put in an appropriate format and the costs in transferring the information to the applicant.

EQUALITY AND DIVERSITY

20. The council, as a public body, is required to meet its statutory obligations under the Equality Act 2010 to have due regard to eliminate unlawful discrimination, promote equal opportunities between people from different groups and to foster good relations between people who share a protected characteristic and people who do not share it. The protected characteristics are: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.
21. Under the Equality Act 2010 we are required to have due regard to our equality duties when making decisions, reviewing services, undertaking projects, developing and reviewing policies.
22. There are no equality or diversity issues with the proposal of these charges.

SECTION 17 CRIME AND DISORDER ACT 1998

23. Section 17 of the Crime And Disorder Act 1998 (as amended by Police and Justice Act 2006) provides that: ‘...it shall be the duty of each authority ... to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all it reasonably can to prevent, crime, disorder, anti-social behaviour adversely affecting the environment, and substance misuse in its area’.
24. The discretionary services provide additional support to individuals and the business sector which will assist in self compliance of businesses. This enables the service to concentrate on enforcement (criminal activity) in the various regulatory areas.

OPTIONS

25. Option one – To not provide discretionary services
26. Option two - Introduce new fees/charges as proposed.

27. Option three – To introduce new fees and charges with adjustments/discounts.

RISK MANAGEMENT

Option one

28. There appears to be some appetite from local businesses to purchase advice or guidance from Regulatory Services. As with any discretionary charge individuals/businesses may be reluctant to purchase such services, however the successfulness of the pre-application advice charges in planning and the take up of food premises reinspection would indicate that there is some demand which can be met.
29. To not provide discretionary services at this time may result in the local authority losing out on potential income generation as well as the opportunity to engage and support local businesses.

Option two

30. The statutory regulatory regime may potentially be affected by an increase in requests for discretionary services due to the lack of additional capacity within the teams. The fee would enable ad hoc cover of statutory function through the use of contractors or additional officer hours. Should the demand for discretionary services increase then consideration of fixed term or permanent recruitment will need to be considered.

Option three

31. Whilst the authority does have the ability to undertake full cost recovery we have the option to either recover basic costs or direct costs only. The council's corporate stance is to ensure charges apply full cost recovery.
32. A discounted rate could be considered as part of our island economy or regeneration plans or for charitable organisations. However, such a scheme could be time consuming to administer and with small numbers this is considered disproportionate.

EVALUATION

33. There are several commercial options that can be considered in the field of local authority regulatory services, for example:
- Consultation and advice
 - Pre-application advice
 - Coaching or training
 - Audit and accreditation
 - Information searches
34. The provision of discretionary services does not necessarily result in a decrease of statutory activity. Should businesses opt to buy certain packages this should lead to better compliance and by default, less regulation/enforcement by regulatory services.
35. Not all areas of commercial activity will be explored at this time. Once these initial charges are in place additional work can be undertaken in terms of marketing, web

design and market testing. This will enable further work to be undertaken in expanding discretionary services and ensuring that adequate resources are in place.

RECOMMENDATION

36. Option two - Introduce new fees/charges as proposed.

APPENDICIES

[APPENDIX A – Service outline and new fee structure 2019](#)

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