

Cabinet Member Report

Decision Makers:	Cabinet Member for City Management
Date:	February 2022
Classification:	For General Release
Title:	Amendment to Appendix 2 of December 2021 Fees and Charges Cabinet Report
Wards Affected:	All
City for All/Policy Context:	See below
Key Decision:	No
Financial Summary:	The report sets out amendments to Appendix 2, Long list of fees and charges, of the Fees and Charges report approved by Cabinet in December 2021.
Report of:	Gerald Almeroth, Executive Director Finance and Resources

1. Executive Summary

- 1.1. The Fees and Charges report was presented to Cabinet in December 2021.
- 1.2. An appendix to the report (Appendix 2: Long List of Fees) set out the detail of each fee and charge, by service, showing the current charge and proposed new charge to be agreed. An error affecting the calculation of a group of charges have since been identified.
- 1.3. This paper sets out a schedule of corrections to the relevant fees and charges for approval so that the intended changes can be correctly implemented.

2. Recommendations

2.1. That the Cabinet Member for City Management:

2.1.1. Approves the revisions to the original Appendix 2: Long list of fees, as detailed at Appendix 1 to this report.

3. Reasons for Decision

3.1. The Fees and Charges report, including an appendix containing the schedule of proposed changes to Council fees and charges, was agreed by Cabinet in December 2021.

3.2. Subsequent to Cabinet decision, errors have been identified within a data set of charges set out in Appendix 2 of the report.

3.3. The affected charges have now been corrected (see Appendix 1 to this report) and corrections have been made to the original Appendix 2: Long List of Fees, approved by Cabinet in December 2021.

4. Financial Implications

4.1. The corrections relate to errors in the presentation of Appendix 2 of the original report, not new funding and fee setting decisions.

4.2. The proposed percentage increases on fees and charges, as shown in the original December Cabinet Report, remain unchanged.

4.3. Charges referenced in Appendix 1 are the only areas where fees are being amended.

5. Legal implications

5.1 Some services the council provides are mandatory and governed by specific legislation whilst other services provided are discretionary. Discretionary Services are those which the council is permitted to provide but not required to Provide.

5.2 In the absence of specific powers or prohibitions on charging for services, the Council has the power to charge a person for discretionary services under Section 93 of the Local Government Act 2003 ("LGA 2003") and under the power of general competence found in Section 1 of the Localism Act 2011 ("LA 2011").

5.3 The overall position on charging is that the Council must not charge for a service if legislation prohibits it from doing so. If legislation requires the Council to provide a service and to charge for it then we are required to do so.

5.4 Charges may be set differentially, so that different people are charged different amounts. Authorities are not required to charge for discretionary services. They may provide them for free if they so decide

- 5.5 The Council cannot use these powers to make a profit, however the Council can include the full cost of all aspects of the service provision when calculating the costs. The Council must ensure that taking one financial year with another the income from any charges for a service does not exceed the cost of providing the relevant service. Any surpluses or under recovery of income should be addressed through a regular review of the Fees and Charges Policy.
- 5.6 The underlying principle behind the legislation is that one service should not be cross subsidising another as each service must be viewed as distinct for charging purposes. Statutory Guidance 'General Power for Best Value Authorities to Charge for Discretionary Services (2003)' was issued by the Secretary of State which needs to be taken into account in considering the exercise of the charging powers and which addresses the above principles in greater detail.

If you have any queries about this Report or wish to inspect any of the Background Papers, please contact:

Lyndsey Gamble, Strategic Finance Manager, Strategic Projects and Commercial Lead

APPENDICES

Appendix 1 – Amended fees and charges

LINK TO ORIGINAL CABINET DECISION

[Agenda for Cabinet on Monday 13th December, 2021, 6.30 pm | Westminster City Council](#)