

# Braintree District Council

## Charging Policy

(Fees and Charges – Task and Finish Group)

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## **1. Introduction**

- 1.1 In recent years there has continued to be increasing pressure on local authorities to make best use of the positive potential of charges and to recognise the importance of recovering costs by charging for services.
- 1.2 The decision on whether to make a charge (and the amount to charge) is not always within the control of the Council. But where it is, it is important that the implications of the charging decisions being taken are fully understood by members and that the officers to whom charge setting powers have been delegated have the appropriate information they need to make informed choices.
- 1.3 The purpose of this Policy is not to be over-prescriptive, but rather to provide a framework for how Braintree District Council approaches the question of charging for its services. The application of this policy is designed to bring greater clarity to the process of setting charges and will therefore assist the Council to achieve its corporate objectives which are set out below. It is also intended to act as a guide in the process of reviewing charges for existing services and setting charges for any new services that may be introduced in the future.

## **2. Statutory background**

2.1 The Local Government Act 2000 (the Act) gave local authorities a wide power to act for the economic, social and environmental well being of their areas. The general power to charge for discretionary services was included in the Local Government Act 2003. Many of these powers derive from legislation that applies to specific service areas, for example:

- section 145 of the Local Government Act 1972 enables authorities to provide and charge for a range of arts and entertainment activities
- section 19 of the Local Government (Miscellaneous Provisions) Act 1976 gives the power to provide a range of sport and recreational facilities and to charge or not charge as they think fit; and
- section 6 of the Prevention of Damage by Pests Act 1949 allows authorities to take action as necessary to remove rats and mice from their area, in fulfillment of their duty under section 2 of the Act, and to recover their reasonable expenses in doing so

Less specifically section 2 of the Local Government Act 2000, gave local authorities a wide power to act for the economic, social and environmental well-being of their areas.

Section 93 of the Local Government Act 2003 enables local authorities to charge as they choose to for discretionary services; provided they are not prohibited by other legislation and they do not make a profit.

Key features are summarised below

The intention of these general charging powers is to encourage authorities to provide those sorts of services they would otherwise decide not to provide (or improve) at all because they cannot justify or afford to provide them for free or to improve them.

2.2 Authorities are under a duty to ensure that, taking one year with another, the income from charges does not exceed the cost of providing the service involved. The maintenance of accurate costs specific to a service is therefore essential.

2.3 In making a charge, the local authority must have the power to provide the service and the recipient of the discretionary service must have agreed to its provision and to pay for it. The Act does not however override any provisions in the legislation which either expressly prohibit the charging for the service or services to be provided or which confer on a local authority a power to charge for a service or services.

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

### **3. General Principles**

- 3.1 An Audit Commission report in 1999 ("The Price is Right") highlighted a 'chaotic' variety of different powers and restrictions on a local authority's ability to charge. At one extreme lies mandatory free provision of service and at the other substantial local discretion to set an appropriate fee scale. It is also the case that in some instances the Government prescribes the fee which a Council may charge for a given service. [www.audit-commission.gov.uk/charging](http://www.audit-commission.gov.uk/charging)
- 3.2 This has now changed as described in section 2, with the introduction of a general power to charge for discretionary services.
- 3.3 Since then a further Audit Commission report into this subject, "Positively charged – Maximising the benefits of local public service charges" (January 2008), has been published. This emphasised the need for local authorities to have an agreed policy on charging for discretionary services.
- 3.4 In general terms, it is the policy of Braintree District Council ("the Council") that unless there is good reason why an exception should be made, a charge should be levied for all discretionary services in accordance with this Charging Policy.
- 3.5 With regard to statutory services, where the Council has control over whether a charge should be levied, and there are no good reasons why an exception should be made, it is the Council's policy that a charge should be made.
- 3.6 It is essential that all charges within the Council's control must be reviewed at least annually. Where only one review is undertaken this should be timed to fit in with the annual budgeting process and the written arguments for any changes should be available for discussion at the meetings and recorded so that they can be revisited in the future.

### **4. Key Principles – Which services should the Council charge for?**

- 4.1 As referred to in section 3.4, charges should be made for all discretionary services. Additionally, each service provided by the Council should be reviewed to establish whether charges could be introduced where these are not already implemented.
- 4.2 However, it is recognised that there will be important exceptions that will make charging inappropriate in a number of cases. These include:
  - circumstances where the service in question is delivered to all residents or householders equally and which could therefore be considered to be funded from Council Tax

(services to be delivered to all residents are to be agreed by the Cabinet)

- circumstances where the administrative costs associated with making a charge would outweigh any potential income
- circumstances where making a charge would be directly contrary to achieving one of the Council's corporate objectives as expressed in previously agreed strategies or statutory requirements
- circumstances where charging would be counter-productive (i.e. it may result in a substantial reduction in usage of the service)

4.3 It is therefore the Council's policy that, in general, service users should make a direct contribution to the cost of providing services at their point of use. When charges for services are reviewed it will be against this background and it will be necessary to consider in each case if exceptions such as those outlined above make charging inappropriate.

## **5. Key Principles – How should the amount levied be determined?**

5.1 Where the Council controls the level of charge to be made for a given service, it is the Council's policy that the charge should, in general, be such that it covers the actual cost of providing the service (including support services) in accordance with agreed guidelines and accounting standards. Managers will therefore have to accumulate evidence on the actual cost of providing the service in accordance with the necessary guidelines and accounting standards as are agreed.

5.2 It is however recognised that this will not be appropriate in all circumstances and the actual amount of charge proposed will need to be a reflection of:

- any relevant Council strategies or policies and any subsidy or concessions given (*note: the question of appropriate concessionary groups and the level of concession is dealt with in detail in section 6*)
- market conditions and prices charged by competitors and/or other local authorities
- the need to avoid any potential distortion of the market which might otherwise occur from pricing services below the levels charged by private sector concerns for similar services

- the need for all charges imposed by the Council to be reasonable (whilst retaining the flexibility to charge commercial organisations a fair price)
- the need to avoid any exploitation of customers who have no option but to use the Council's services
- the desirability of increasing usage of a given service
- the possibility of increasing income to the Council

5.3 One of the aims of this policy is to ensure that establishing the 'right' price for a service should not be simply a case of adding an inflationary increase to last year's charge. When charges are reviewed all the factors set out above should be taken into account in order that officers may make informed choices on the level of charge to be set.

## **6. Key Principles – Which service users should receive a concession?**

6.1 In some circumstances it may be appropriate to consider offering an 'across the board' subsidy to all users of a particular service where this is consistent with achieving the Council's objectives. It is also recognised that offering concessions for certain key user groups is consistent with achieving the Council's high level objectives as set out in a range of existing strategies.

6.2 We must take into account our aims in the Corporate Strategy for 2008-2012 which states we will ensure that people enjoy growing up, living and working in the Braintree District because it is a place where:

- the environment is clean and green
- business is encouraged and the local economy prospers
- everyone can enjoy a healthy lifestyle
- housing and transport needs meet local needs
- people take pride in their local area
- we deliver excellent, cost effective and valued services

Concessions are clearly one of the ways in which the Council can fulfill this commitment.

- 6.3 Recognising the broader agenda of maximizing access to services, it is the policy of the Council that when charges are reviewed concessions should be considered for the following groups:
- young people aged 16 years or younger
  - full time students
  - senior citizens over state pensionable age
  - individuals on low incomes in receipt of means tested benefit
  - Individuals receiving "carer's allowance"
  - holders of "Blue Badges"
- 6.4 It is not appropriate to fix a level of concession in this policy as this removes all discretion. However a concession of up to 50% of the full charge may be appropriate in some cases.
- 6.5 It is recognised that in some circumstances concessions may not be appropriate and that it will be necessary to consider carefully the impact on income before introducing concessions to service areas that do not currently offer them. However, an assessment of the desirability of offering concessions (and the financial implications) needs to form part of the evaluation of an appropriate charge for any given service.
- 6.6 Managers must advise members of the effect on usage, access and finance of any concessions in calculating the charge and the income that is derived.

## **7. Key Principles – How will any surplus income be used?**

- 7.1 At present the way in which the Council prepares its budgets is such that income derived from charging for services is used to offset the cost of providing the service in question. This is consistent with the current statutory situation. Any modest surplus is then returned to the Council's General Fund.
- 7.2 The advantage of such an approach at a high level is that it enables resources generated through charging to be used wherever the highest priority exists – i.e. for a corporate view to be taken regarding the use of the available resources.
- 7.3 It is therefore the Council's policy that any surplus generated from charging shall be seen as a corporate resource to be used where need is greatest, provided this is not prohibited by other statutory requirements or government guidance.
- 7.4 However, it is acknowledged that the ability to use charges to deliver the targets set by members requires a degree of freedom to

experiment and corporate controls (as expressed through this policy) need to avoid imposing unnecessary restrictions. Therefore, proposals for 'reinvesting' any additional income raised from charging in the expansion and development of a particular service will need to be considered as part of the annual review of charges. Each proposal will therefore be considered on its own merits at that time.

7.5 It is also recognised that in some special circumstances (such as Building Control) the approach to the use of surplus may be influenced by Government Guidance.

7.6 It is also the Council's policy that, subject to any requirements imposed by the Council's Constitution, charges for individual services may be varied "in year" at the discretion of the responsible Head of Service following discussion with the Director (Finance) and appropriate Cabinet Member.

## **8. A Summary of the Council's Charging Policy**

8.1 It is the Council's policy that service users should make a direct contribution to the cost of providing services (both discretionary and statutory) at their point of use unless there are:

- circumstances where the service in question is delivered to all residents or householders equally and which could therefore be considered to be funded from Council Tax
- circumstances where the administrative costs associated with making a charge would outweigh any potential income
- circumstances where making a charge would be directly contrary to achieving the Council's corporate objectives as expressed in previously agreed strategies
- circumstances where charging would be counter-productive (i.e. it may result in a substantial reduction in usage of the service)

8.2 The charge levied should, in general, be such that it covers the actual cost of providing the service (including support services). The level of charge will however be made having regard to:

- any relevant Council strategies or policies (e.g. Equal Opportunities policy, Leisure Strategy etc.) and any subsidy or concessions which may be appropriate
- market conditions and prices charged by competitors and/or other local authorities
- the need to avoid any potential distortion of the market which might otherwise occur from pricing services below the levels

charged by private sector concerns for similar services

- the need for all charges imposed by the Council to be reasonable (whilst retaining the flexibility to charge commercial organisations a fair price)
- the need to avoid any exploitation of customers who have no option but to use the Council's services,
- the desirability of increasing usage of a given service
- the possibility of increasing income to the Council

8.3 It is the policy of the Council that when charges are reviewed concessions should be considered for the following groups:

- young people 16 years of age or under
- full time students
- any person in receipt of a means tested benefit
- senior citizens over state pensionable age
- holders of "Blue Badges"
- person in receipt of carer's allowance

8.4 It is not appropriate to fix a level of concession in this policy as this removes the Council's discretionary powers to do so in the future.

8.5 Any surplus generated from charging shall be seen as a corporate resource to be used where need is greatest.

8.6 Proposals for 'reinvesting' any additional income raised from charging in the expansion and development of a particular service will need to be considered as part of the annual review of charges. Each proposal will therefore be considered on its own merits at that time.

8.7 All charges within the Council's control should be reviewed at least annually. Where only one review is undertaken this should be timed to fit in with the annual Service Challenge process and the principles of any changes should be available for discussion at the budget setting meetings.

8.8 Subject to any requirements imposed by the Council's standing orders, charges for individual services that fall within the council's portfolio management structure may be varied 'in year' at the discretion of the responsible Corporate Director in consultation with the appropriate Portfolio Holder. Charges for individual services managed by Heads of Service may be varied 'in year' at the

discretion of the responsible Head of Service in consultation with the Corporate Director and the appropriate Portfolio Holder.

- 8.9 When charges are reviewed it will be necessary to undertake an analysis which includes an examination of all the factors set out above in order that officers may make informed choices on the level of charge to be set.

## **9. How will this policy be implemented?**

- 9.1 Charges are subject to annual review as part of the Council's budget setting process. In future, the review of existing charges will be undertaken every five years having regard to the guidelines set out within this policy.
- 9.2 It will also be necessary for each Head of Service, as part of the preparation of annual service plans, to consider if services currently provided free should be subject to a charge or if good reasons exist for maintaining a free service.
- 9.3 In circumstances where a charge is being introduced for the first time (or being substantially increased) it will be necessary for the public to be informed of the reasons for the Council's decision.