

TONBRIDGE & MALLING BOROUGH COUNCIL

FINANCE, INNOVATION and PROPERTY ADVISORY BOARD

08 January 2020

Report of the Management Team

Part 1- Public

Matters for Recommendation to Cabinet - Key Decision

1 REVIEW OF FEES AND CHARGES 2020/21

This report brings forward for consideration as part of the budget setting process for 2020/21 proposals in respect of those fees and charges that are the responsibility of the Cabinet Member for Finance, Innovation and Property or not reported elsewhere.

1.1 **Introduction**

- 1.1.1 The purpose of this report is to set out for 2020/21 the proposals for those fees and charges which fall within the remit of this Board or which have not been reported elsewhere.
- 1.1.2 The budgetary guidance issued to Chief Officers for the 2020/21 budget cycle, and approved by Cabinet, reiterated the objective to maximise income subject to market conditions, opportunities and comparable charges elsewhere. In bringing forward proposals officers have paid due regard to the guiding principles for the setting of fees and charges previously approved by this Board and endorsed by Cabinet.
- 1.1.3 The proposals regarding fees and charges outlined in this report are incorporated within the Revenue Estimates to be found elsewhere on this agenda. Any changes required following this meeting will be incorporated before the Estimates are presented to Cabinet on 13 February 2020. The proposals are set out on a service by service basis with the recommendations at the end of each section.

LEGAL SERVICES

1.2 **Legal Fees Payable by Third Parties**

- 1.2.1 From time to time the Council's legal fees can be recovered from third parties, for example costs in connection with section 106 agreements or certain property transactions. Our level of fees have historically followed the Supreme Court guideline hourly rates, which are currently as follows:

Solicitors with over 8 years post qualification experience including at least 8 years relevant experience	£217
Solicitors and legal executives with over 4 years post qualification experience including at least 4 years relevant experience	£192
Other solicitors and legal executives and fee earners of equivalent experience	£161
Trainee solicitors, paralegals and fee earners of equivalent experience	£118

- 1.2.2 For some Property transactions the amount to be charged in connection with the Council's legal work is indicated in the Property document or Lease and in such cases the amount stated in such documents will apply on a case by case basis.
- 1.2.3 For certain leasehold and miscellaneous property transactions the Council does not charge the full fee for the legal and administrative work undertaken as the operators, who are often sole traders and small businesses, have to pay full market rate for the rental of the business premises in accordance with statutory provisions. This is for instance the case with regard to lease renewals where only a contribution towards legal and administrative work is charged of £250. It is proposed to continue with this approach to assist the local economy.
- 1.2.4 It is **RECOMMENDED** that the Council's charges follow the rates set out above and continue to reflect existing practises highlighted above.

1.3 LAND CHARGES

- 1.3.1 The Local Land Charges Act 1975 ("the Act") and the Local Authorities (England) (Charges for Property Searches) Regulations 2008 ("the Regulations") enable local authorities to charge for their property search services and set out rules for calculating the fees. The charges must be on a cost recovery basis and not on a "profit basis" and so the Council is legally restrained in its approach to such fee setting.
- 1.3.2 The regulations allow for the fact that the fee has to be set in advance and so is based on an estimate of the likely level of searches received and the likely expenditure of the local authority in connection with answering those enquiries for the forthcoming year. The Act provides that registering authorities must secure that taking one financial year with another, that fee income does not exceed the cost of providing the services. This applies to the Official Search of the Land Charges Register. The Regulations apply in respect of the Official Enquiries of Local Authorities (more commonly known as Con 29) and further provide that over any three year period the authority should not make a profit in relation to the fees it has charged.
- 1.3.3 The housing and commercial property market is known to be a volatile area of activity where income can fall, or alternatively increase, quickly. The last year has

shown a slight decline in search income which is likely to be associated with the uncertainty around Brexit.

- 1.3.4 Your officers have undertaken random sampling and time recording to test the level of fees in accordance with the appropriate legislation on charging. Having taken this into account together with the level of fee income and associated costs incurred in the provision of the relevant Services in the past three years it is not proposed to change the standard fees which were charged last year.
- 1.3.5 The table at **Annex 1** shows the fees for land charges searches and enquiries and the VAT element of those proposed to be effective from 1 April 2020
- 1.3.6 It is not believed that it is appropriate to have any concessionary charges apply to these fees given that the search function supports the sale and purchase of private property. Members are reminded of the requirement under the Public Sector Equality Duty (s149 of the Equality Act 2010) to have regard to the requirement to (i) eliminate unlawful discrimination, harassment, victimisation and other conduct prohibited by the Act, (ii) to advance equality of opportunity between people from different groups and (iii) to foster good relations between people from different groups, however it is not believed that these charges will have an adverse impact on any particular group protected by the 2010 legislation. The charges will be the same for everyone who requires the Services and there does not appear to be any disproportionate effect on any of the protected groups.
- 1.3.7 It is **RECOMMENDED** that the proposed scale of fees for local land charges searches and enquiries set out in this report be adopted with effect from 1 April 2020.

ADMINISTRATIVE SERVICES

1.4 Photocopying Charges

- 1.4.1 A photocopying service is offered for members of the public calling at the council's main offices or requiring copies of Council documents sent by post. The current charges are 10p for each page of the same document or additional copies of the same page plus postage as appropriate.
- 1.4.2 These charges are intended to cover the costs of the photocopy meter charge (including toner), paper and an allowance towards the staff time in looking out documents and postage where appropriate.
- 1.4.3 The level of charge was reduced in 2007/08 after remaining static for a number of years to comply with Freedom of Information requirements. The marginal cost per copy (including paper) is still approximately £0.10 per copy. Comparative charges in neighbouring authorities have been somewhat difficult to ascertain and many appear not to charge for photocopying. However, it is considered appropriate to retain a charge to avoid requests for multiple copies of pages and to cover cases

where documents cannot be provided by email. It is therefore suggested that the current charge be maintained.

- 1.4.4 It is **RECOMMENDED** that Cabinet be recommended to retain the current photocopying charges of £0.10 (inclusive of VAT) for each page of the same document or additional copies of the same page plus postage as appropriate.

STREET NAMING & NUMBERING SERVICES

1.5 Street Naming & Numbering - Introduction

- 1.5.1 The requirement to provide a Street Naming & Numbering service is derived from the Towns Improvement Clauses Act 1847, the Public Health Acts Amendment Act 1907 and the County of Kent Act 1981. The TMBC Street Naming & Numbering Policy sets out the framework under which the service is delivered in this authority.
- 1.5.2 The IT GIS Team are responsible for delivery of this service. The actual cost of service delivery has been calculated by recording staff processing time, software costs and postage costs. The service generates an income of £42,000 a year. Neighbouring boroughs have their costs calculated in a different way from TMBC, where new developments can be more costly and single addresses can be less costly, but the overall income is balanced.
- 1.5.3 In line with the previous fee schedule the following priorities have been accounted for in the latest review:
- There should be no overall reduction of income to the Council through the SNN function;
 - The cost of SNN to the Council should, where possible, be recovered through fees and charges (noting that this is not always possible, and not always desirable);
 - Ensure there are no ‘perverse incentives’ to apply for alternative naming schemes to minimise costs;
 - Ensure there is clarity in the fee schedule to avoid confusion and the need for officer discretion in charging fees;
 - Where workloads are sufficient to justify such, additional new fees should be considered.
- 1.5.4 The changes introduced in the fee structure last year continue to address the five principles set out above.

1.5.5 For the purposes of this year's review I have concentrated on priorities 1 and 2 ensuring that the cost of SNN to the Council is recovered where possible through fees and charges.

1.5.6 All fees have been uplifted by circa 3%.

1.6 Proposed Fee scale for Street Naming and Numbering

1.6.1 A development is considered to be separate if they are received on separate applications and/or they do not share a common road which is also being named for the first time as part of the application.

1.6.2 Individual flats are considered as individual plots.

New Properties

Category	Up to three in-fill properties on an existing street	Current Fee 2019/20	Proposed Fee 2020/21
1	Addressing one new in-fill property	£182	£187
2	Addressing two to three in-fill properties	£95 per property	£98 per property
	Where four or more properties are to be named or numbered, the fee for new developments (below) will be levied.		

	Four or more in-fill properties on an existing street, or new properties on a new street		
3	Fee for naming of a street, other than in relation to new property addressing	£221	£227
4	Fee for addressing plots, including street naming if Required 1- 4 Units	£222 +£34	£228 +£35
5	5 – 10 Units	£222 +£29	£228 +£30
6	11 or more units	£444 +£12	£457 +£12

1.6.3 Existing Properties

7	Renumbering an existing property	£80	£82
8	Renaming an existing property, not in a current numbering scheme	£80	£82
9	Registering the addition or change or an alias to a numbered property	£80	£82
10	Removing an existing alias from a numbered property	No charge	No charge
11	Rename an existing street	£1,665	£1,715

12	Rename a block of flats	£1,665	£1715
13	Fee for addressing units (flats) when splitting an existing property	£95 per unit	£98 per unit
14	Fee for addressing a single property when merging separate units	£182	£187

- 1.6.4 It is **RECOMMENDED** to Cabinet that the above fee Schedule for Street Naming and Numbering be adopted from 1 April 2020.

1.7 Council Tax and Business Rate Court Costs

- 1.7.1 The Council is obliged by law to collect all unpaid amounts of council tax and business rates and therefore has to take recovery action through the Magistrates' Court to obtain the necessary order.
- 1.7.2 The Council's costs in taking this recovery action is charged back to the taxpayer as follows:-

Court Costs 2019/20			
Tonbridge & Malling	Summons	Liability Order	Total
Council Tax	£55	£45	£100
Business Rates	£120	£60	£180

- 1.7.3 The level of costs is agreed with the Magistrates' Court each year and evidence must be provided to justify the amount being requested. The Magistrates' Court has accepted our cost evidence during this financial year for the above charges.
- 1.7.4 Having consulted the other Kent authorities, I can confirm that none are looking to increase their charges. I do not, therefore, propose to seek the Court's approval to increase the level of costs requested from taxpayers.
- 1.7.5 It is **RECOMMENDED**, therefore, that the amount of costs recharged should remain the same for the 2020/21 financial year.

1.8 Legal Implications

- 1.8.1 The Council's financial rules require that all fees and charges must be reviewed at least once a year and be reported to Members.

1.9 Financial and Value for Money Considerations

- 1.9.1 As set out above in relation to individual fees and charges.

1.10 Risk Assessment

- 1.10.1 As part of the review of fees and charges Chief Officers will consider the risks associated with any proposals.

1.11 Equality Impact Assessment

- 1.11.1 The decisions recommended through this paper have a remote or low relevance to the substance of the Equality Act. There is no perceived impact on end users.

1.12 Recommendations

- 1.12.1 Recommendations are set out at the end of each section.

Background papers:

contact: Adrian Stanfield

Nil

Sharon Shelton

Director of Finance & Transformation on behalf of Management Team