

TONBRIDGE & MALLING BOROUGH COUNCIL

STREET SCENE and ENVIRONMENT SERVICES ADVISORY BOARD

08 December 2020

**Report of the Director of Street Scene, Leisure & Technical Services and Director
of Planning, Housing & Environmental Health**

Part 1- Public

Matters for Recommendation to Cabinet - Key Decision

1 REVIEW OF FEES AND CHARGES

This report sets out the proposed fees and charges for the provision of services in respect of garden waste subscriptions, fixed penalty notices for littering, household bulky refuse & fridge/freezer collections, “missed” refuse collections, stray dog redemption fees, pest control, food certificates, contaminated land monitoring and private water supplies from 1 April 2021.

1.1 Introduction

1.1.1 In bringing forward the charging proposals for 2021/22 consideration has been given to a range of factors, including the Council’s overall financial position, market position, trading patterns, the current rate of inflation and customer feedback.

1.1.2 The proposed charges for 2021/22 have also taken into account the set of guiding principles for the setting of fees and charges approved by Members of the Finance, Innovation and Property Advisory Board and reproduced below for the benefit of this Board:

1. Fees and charges should reflect the Council's key priorities and other corporate aims and priorities recognising there may be trade-offs as these are not mutually exclusive;
2. Fees and charges should have due regard to the Council's Medium Term Financial Strategy;
3. If there is to be a subsidy from the Council tax payer to the service user this should be a conscious choice;
4. The Council should look to maximise income subject to market conditions, opportunities and comparable charges elsewhere, in the context of its key priorities and other corporate aims and priorities;
5. Fees and charges should normally be reviewed at least annually (unless fixed by statute or some other body);

6. Fees and charges should not be used to provide a subsidy from the Council tax payer to commercial operators;
 7. There should be consistency between charges for similar services;
 8. Concessions for services should follow a logical pattern so as not to preclude, where appropriate, access to Council services on the grounds of ability to pay.
- 1.1.3 It is essential in light of the Council's overall financial position that opportunities are taken to maximise income, as it is becoming increasingly difficult to achieve further expenditure savings to meet the targets in the Corporate Savings and Transformation Strategy. The Savings and Transformation Strategy includes a target of £100,000 from income generation and cost recovery. Close attention has been given to the fees and charges applied by neighbouring Council's, and averages across the County, and these comparisons are included in relevant sections of the report for Member consideration.

1.2 Garden Waste Subscriptions

1.2.1 The current charge for an annual garden waste subscription is £40 with a second or third bin discounted to £25. When the scheme was first introduced in 2019 residents were offered an early bird deal which fixed the charge at £35 for 2 years. This was to encourage take up and proved to be extremely popular with 20,185 households taking up the offer. In total 27,500 residents have now signed up for the service representing a take up of 50%. This level of take up is significantly greater than originally anticipated and represents the highest level in the County. Due to the suspension of the garden waste service during the first lockdown period all subscribers were given a 2 month extension free of charge. The renewal of subscriptions is now fully underway and an update on progress will be provided at the meeting.

1.2.2 Charges for garden waste subscription across local authorities in Kent are as follows:

Ashford BC - £37.50, Canterbury CC - £45, Dartford BC - £42.50, Dover DC - n/a as provide a sack service, Folkestone and Hythe DC - £48, Gravesham BC -£48, Maidstone BC - £40, Sevenoaks DC - £47, Swale BC - £37, Thanet DC - 52, Tonbridge and Malling BC - £40, Tunbridge Wells BC - £52.

It can be seen that charges range from £37 to £52. This Council has the third lowest charge across the County with an average County charge of £44.50.

1.2.3 Income to the Council from the garden waste subscription scheme is significant [second only to income from parking] and uptake across the borough since its introduction has been extremely good. The initial charging strategy was to set the charges at a level below the county average and furthermore offer a 2 year fixed early bird discount. This was to achieve a high take up of the service which as

shown above has been achieved. It is felt that the next step of the strategy should be to increase the charge in line with the county average. This will reflect the approach taken with other charges levied by the Council and also follow the guidelines outlined at sub section 1.1.2 earlier in this report.

- 1.2.4 In considering the above it is felt that a number of factors need to be considered. These include the need not to discourage existing subscribers from renewing, the economic impact of Covid-19 and the difficulties experienced with the collection arrangements. It is therefore suggested that the principle of moving the charge to be in line with the county average be supported, but this be progressed on a phased basis over the next few years. The proposed charge suggested for 2021/22 is therefore £42 with an annual uplift to be applied year on year thereafter having regard to the county average. This approach will enable renewal levels and charges by other local authorities to be closely monitored, and for the approach to be reviewed annually by Members of this Advisory Board. The proposed increase for 2021/22 gives an income estimate of £1,175,000. It is also suggested that the charge for the second or third bin be increased from £25 to £27.
- 1.2.5 The proposals outlined above are considered to offer a balanced approach to the garden waste subscription charges and it is relevant to note that a charge of £42 equates to £1.62 per collection. This is considered to offer excellent value for money.

1.3 Fixed Penalty Notice for Littering

- 1.3.1 To throw down, drop or otherwise deposit and leave litter in any place open to the air, including private land, is a criminal offence under section 87 of the Environmental Protection Act 1990 (EPA), (as amended by the Clean Neighbourhoods and Environment Act 2005). This offence includes dropping litter in water such as rivers, streams and lakes. The police or local authority can prosecute the offender; it is also possible for private individuals to prosecute. The offence is dealt with by the Magistrates' Court, with a maximum fine of £2,500.
- 1.3.2 Prosecution for dropping litter is time consuming and expensive, making it very difficult to prosecute large numbers of litter offenders. As a lower cost alternative to prosecution, section 88 of the EPA gives the power to issue a Fixed Penalty Notice for the offence of leaving litter. Local authorities have the power to specify the level of fine that will apply in their area, with a standard default amount of £75 if they choose not to do so. The offender has 14 days to pay. Failure to pay can result in a prosecution. Local authorities are entitled to keep any of the money they get from Fixed Penalty Notices subject to this income being spent on functions relating to littering. Fixed Penalty Notices are considered to be an effective and visible way of responding to littering.
- 1.3.3 The level of littering Fixed Penalty Notices available to local authorities is set by Central Government and the maximum is currently set at £150, with a suggested default level of £100, and a minimum full penalty of £65. This Council's maximum

is currently set at £100, with a reduction to £65 if paid within 10 days of it being issued. The offer of a discount for prompt payment is effective in collecting income and reducing administrative costs. It is also an approach adopted in other Service areas such as parking. These charges were considered by Members of this Board in February 2019 and subsequently approved by Cabinet.

1.3.4 This table gives the current levels of Fixed Penalty Notices for littering across Kent districts and Medway Council:

	Full level of fine	Level of fine for prompt payment [within 10 working days]
Ashford BC	£75	No reduction
Canterbury CC	£150	£100
Dartford BC	£75	No reduction
Dover DC	£75	No reduction
Folkestone & Hythe DC	£100	No reduction
Gravesham BC	£150	No reduction
Maidstone BC	£120	£90
Medway CC	£150	£90
Sevenoaks DC	£100	£65
Swale BC	£150	No reduction
Thanet DC	£100	No reduction
Tonbridge and Malling BC	£100	£65
Tunbridge Wells BC	£150	No reduction

1.3.5 Discussions are currently taking place through the Kent Resource Partnership to try to achieve consistency of approach to levels of fines across Kent districts from next year, as current levels clearly vary significantly. It is anticipated that a number of districts will be increasing their levels from 1 April 2021, but no formal decisions have yet been made.

1.3.6 In order to act as a meaningful deterrent a number of Members have recently requested that this Council's Fixed Penalty Notice level be increased to the maximum available, which would be £150. This would bring this authority in line with around half of all Kent councils, with others potentially increasing their levels from April 2021.

- 1.3.7 Historic data indicates that a reduced rate for early payment does result in a higher proportion of FPNs being paid, so Officers would recommend maintaining an early payment reduction if the FPN is paid within 10 days of issue. Around 65% of FPNs issued by TMBC have been paid within that timescale. This also reduces costs in terms of resources required to chase payment or further actions for the remainder of FPNs issued. It is proposed that the level for early payment be increased to £100.
- 1.3.8 Any change in the Fixed Penalty Notice levels and associated publicity will no doubt raise expectations around enforcement activities. This activity is largely carried out by the existing Waste & Enforcement Officers whose other duties are to monitor the refuse, recycling & street cleansing contracts, as well as dealing with service requests & complaints about those services. Following a recent report to General Purposes Committee a new Waste and Enforcement Officer post has recently been added to the team and the appointment is currently being progressed.
- 1.3.9 Subject to the above proposed charges being approved estimated income from Fixed Penalty Notices in 2021/22 is £8,000.

1.4 Household Bulky Refuse & Fridge/Freezer Collection Service

- 1.4.1 In April 2016, a two tier fee was introduced with a price for up to six items of bulky refuse and a lower price for up to two fridge/freezer only collections. The new fee structure also included a concessionary charge for those receiving Council Tax Support.
- 1.4.2 While Councils are not able to make a profit from the collection of a “prescribed” household waste (such as a bulky collection service), the legislation does allow Council’s to recover the associated collection costs together with reasonable administration costs.
- 1.4.3 The current fee structure of our neighbouring authorities (2020/21) is outlined below, with each authority having different arrangements in place. Only Tunbridge Wells BC offer any form of concession:-

Maidstone B.C.	Sevenoaks D.C.	Tun. Wells B.C.
5 - 8 items, £35 Fridge Freezer, £20	1 item - £18 2 items - £30 3 to 4 items - £40 5 to 10 items £52 White goods - £18 each Large American style fridge freezers - £42 each	£43.20 for two “medium” items, or one “large” item.
No Concessions	No Concessions	1 free collection per month for residents receiving Benefits.

- 1.4.4 It is proposed to increase this authorities existing full and concessionary prices as set out below. Demand for this service has increased over the last year and is expected to continue to be high in 2021/22 which is reflected in the estimated income.

Service	Current Full Charge	Proposed Full Charge 2021/22	Current Concession Charge	Proposed Concession Charge 2021/22	Est. Income 2020/21
Household Bulky Refuse Collection (up to six items)	£55.00	£56.00	£15.50	£16.00	£120,000
Household Fridge/ Freezer Collection (up to two items)	£33.00	£34.00	£15.50	£16.00	

1.5 Refuse collection charge

- 1.5.1 On occasion the Waste Services Team receive requests from customers to empty wheeled bins where the customer has not placed their bin out and has missed the collection. On these occasions the Team are occasionally asked by the customer if they can pay for a “one off” return collection.
- 1.5.2 A collection charge to cover these circumstances was introduced in April 2015. It covers the contract cost of returning and includes a small administration fee. To date there have been no concerns raised by customers. Although the number of requests are low, it does allow our Waste Services staff to offer an alternative solution.
- 1.5.3 It is proposed to maintain this charge at £20.00 for 2021/22.

Service	Current Charge	Proposed Charge 2021/22	Income Full Year 2021/22
Refuse Collection Charge	£20.00	£20.00	£200

1.6 Stray Dog Redemption fee

- 1.6.1 The Environmental Protection Act 1990 prescribes that a person claiming to be the owner of a dog seized as a stray by the Council shall not be entitled to the return of the dog unless all the expenses incurred by reason of its detention, and such further amount as is for the time being prescribed, are met. The Environmental Protection (Stray Dogs) Regulations 1992 set down a prescribed redemption fee of £25 and provides for local authorities to recover its other reasonable expenses, in addition to any other expenses incurred, such as kennelling costs.
- 1.6.2 Where a dog is taken to kennels the Council charges the owner for the other reasonable expenses, associated with the costs of providing the Dog Warden contract and admin costs. This is presently set at £70. The total fee charged by the Council is therefore £95. It is proposed that the contract & administration fee be increased to £73 with no formal waiver or discount, but the Council will continue to exercise discretion to allow payment by instalments. Daily kennelling costs are paid direct to the kennels by the owner when collecting their dog.
- 1.6.3 Stray dogs have been declining in recent years and this is reflected in the estimated income for 2021/22.

Service	Current Charge	Proposed Charge 2021/22	Income Full Year 2021/22 (assuming consistent number of claimed /returned)
Stray Dog Redemption Fee - Return Direct to owner	£25 (Statutory fee)	£25 (Statutory fee)	£100
Stray Dog Redemption Fee - Kennelling required	£95 (including statutory fee, but not including daily kennelling costs).	£98 (including statutory fee, but not including daily kennelling costs).	£5,900

- 1.6.4 The proposed total charge of £98 is comparable to charges applied by neighbouring Councils. At present, where the Dog Warden returns a stray dog to the owner without the need for kennelling, a charge is made at the prescribed fee of £25. No change is proposed to this charge.

1.7 Pest Control

- 1.7.1 The Council has a statutory duty to inspect the borough for the incidence of rats and mice and to take action where an infestation is found. This function is

supported by statutory powers to serve notice on owners of land to take action to destroy rats and mice and/or prevent conditions likely to provide harbourage for pests.

- 1.7.2 The pest control service is delivered as a joint contract with Tunbridge Wells Borough Council. The service provides a free treatment of rats, mice, cockroaches and bedbugs to those on Council Tax support only.
- 1.7.3 The contract was recently retendered and awarded to Monitor Environmental services starting in November 2020.
- 1.7.4 In all other pest related cases, customers may be referred to Monitor Environmental Services to carry out a charged treatment. Alternatively, customers may arrange treatment direct with an alternative pest control company.
- 1.7.5 Numbers of service requests from those on Council Tax support are very small, with an estimated overall cost to the Council of £3,000 per annum. This is offset by a referral fee of £2,000 paid by Monitor. In the interests of public health and with very small numbers of service requests, it is not considered appropriate to change the current arrangement.

1.8 Condemned Food Certificates

- 1.8.1 This is a service available to food businesses in the borough which properly controls the safe surrender and disposal of food deemed by Environmental Health staff as unfit for human consumption. The service continues to reflect legislative requirements for stricter controls and is based on total cost recovery. The proposed charges, as set out below, continue to reflect this approach.
- 1.8.2 Recent years have seen a significant decline in the number of certificates requested. The lower income rate is reflected in estimated full year income. However this could increase dependent on EU exit decision and any impact from this.

Service	Current Charge	Proposed Charge 2021/22	Income Full Year 2020/21
For each Condemned Food Certificate Issued	£160 for first hour plus £160 for each additional hour plus VAT	£165 for first hour plus £165 for each additional hour plus VAT	£165

1.9 Exported Food Certificates

- 1.9.1 This is a service provided by the Council for food exporters who export food outside the European Union. In this instance, Authorised Officers from the Borough Council certify that the food products being exported have been manufactured and held under hygienic conditions in accordance with the

requirements of Regulation (EC) 852/2004 and The Food Safety & Hygiene (England) Regulations 2013. The premises are subject to regular inspection by Food and Safety Officers.

- 1.9.2 The level of demand for Exported Food Certificates has remained low and steady over the last few years with an average of 20 per year. This may change post Brexit, with a possible increase in requests.
- 1.9.3 There is some variance across the County in fees charged for this service: Dover charge £65 and Dartford £80 while Tunbridge Wells and Maidstone charge £120.
- 1.9.4 We propose to apply a small increase to the current charge to reflect costs in responding to these certificate requests.

Service	Current Charge	Proposed Charge 2021/22	Income Full Year 2020/21
For each Exported Food Certificate issued	£65 plus VAT per certificate	£68 plus VAT per certificate.	£1,360

1.10 Food Hygiene Requests for Re-visits

- 1.10.1 Food business operators that have made improvement to hygiene standards following their inspection can request a re-visit with a view to giving them a new and higher food hygiene rating. There is currently a charge of £165 for this service. Neighbouring authorities are charging as follows: Mid Kent Environmental Health Partnership £160, Sevenoaks/Dartford Environmental Health Partnership £200, Gravesham £168 and Dover £126. The proposal is to increase this fee to £170 for 2021/22. This would give an estimate of £340 for 2021/22.

1.11 Contaminated Land

- 1.11.1 The Environmental Protection Act 1990 Part 2A requires local authorities to implement a system for the identification and remediation of land where contamination is causing a risk to human health or the wider environment because of historic or current uses.
- 1.11.2 The Environmental Protection Team provides a contaminated land information service or assessment of risk for which it currently makes a charge of £68 per hour in responding to these requests for information.
- 1.11.3 Guidance from the Information Commissioner advises that local authorities can make a reasonable charge. We have assumed that a reasonable charge includes the hourly rate of the Officer responsible for providing information, on-costs and an administration charge.

1.11.4 The fee has been derived based upon comparison with other Kent local authorities. For example while Tunbridge Wells currently charge £25 per hour. Some Authorities such as Folkestone & Hythe and Medway charge flat rates of £150. There is no maximum fee under the legislation.

1.11.5 We propose to apply a small increase to the current charge to reflect costs in responding to these requests for information. Recent years have seen a decline in requests for information which is reflected in the estimate for next year.

Service	Current Charge	Proposed Charge 2021/22	Income Full Year 2021/22
Responding to requests for information relating to contaminated land	£68.00 per hour (1 hour minimum charge)	£70.00 per hour (1 hour minimum charge)	£1,500

1.12 Private Water Supplies

1.12.1 The Private Water Supplies Regulations 2009 introduced a statutory and more onerous regime for the risk assessment and sampling of private water supplies.

1.12.2 In a report to this Board on 28 February, 2011 it was agreed to introduce a charge to recover the cost of Officer's time. In addition, owners of private water supplies and private distribution networks will be charged for the cost of sample analysis.

1.12.3 We have reviewed the cost of providing this service and propose to apply a small increase to £65 per hour, plus the cost of sample analysis.

1.12.4 The fee has been derived based upon comparison with other Kent local authorities. Folkestone and Hythe charge £56.30. Dover charge a flat fee of £100 for sampling and £500 for a risk assessment, with sample analysis costs on top. These charges are no longer subject to a maximum limit by virtue of the Private Water Supplies (England) (Amendment) Regulations 2018. However there is an expectation that charges should only cover costs incurred.

1.12.5 As each private water supply is very different, the Officer time for each visit/ risk assessment is difficult to quantify. We have seen a decline in this service over recent years which is reflected in the estimated full year income.

Service	Current Charge	Proposed Charge 2021/22	Income Full Year 2021/22
Carrying out sampling and risk assessment of private water Supplies	£63.00 per hour (1 hour minimum charge) plus VAT	£65.00 per hour (1 hour minimum charge) plus VAT	£750

1.13 Legal Implications

1.13.1 Section 93 of the 2003 Local Government Act allows authorities to charge for services that they have a power [but not a duty] to provide.

1.14 Financial and Value for Money Considerations

1.14.1 The fees and charges proposed have been considered in accordance with a set of guiding principles and the opportunity to maximise income has been taken where possible.

1.15 Risk Assessment

1.15.1 A decision is required now on the proposed fee structure for these activities to ensure that the Council has timely and up-to-date arrangements in place to administer service requests when received.

1.16 Equality Impact Assessment

1.16.1 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.

1.17 Recommendations

1.17.1 It is **RECOMMENDED** to Cabinet that:-

1. The proposed scale of charges for garden waste subscriptions, fixed penalty notices for littering, household bulky refuse & fridge/freezer collections, "missed" refuse collections, stray dog redemption fees, pest control, food certificates, contaminated land monitoring and private water supplies as detailed in the report be approved; and
2. The proposed scale of charges be implemented from 1st April 2021.

The Directors confirm that the proposals contained in the recommendation(s), if approved, will fall within the Council's Budget and Policy Framework.

Background papers:

Nil

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