

TONBRIDGE & MALLING BOROUGH COUNCIL

FINANCE, REGENERATION AND PROPERTY SCRUTINY SELECT COMMITTEE

14 November 2023

Joint Report of the Director of Central Services and Director of Finance and Transformation

Part 1- Public

Matters for Recommendation to Cabinet - Non-Key Decision

1 REVIEW OF FEES AND CHARGES

This report sets out the proposed fees and charges for 2024/25 within the purview of the Scrutiny Select Committee for recommendation to Cabinet.

1.1 Introduction

1.1.1 In bringing forward the charging proposals for 2024/25 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 2024/25 have also taken into account a set of guiding principles for the setting of fees and charges reproduced below for the benefit of this Committee:

- 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;
- Fees and charges should have due regard to the Council's Medium Term Financial Strategy;
- If there is to be a subsidy from the Council taxpayer to the service user this should be a conscious choice;
- 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;

- Fees and charges should normally be reviewed at least annually (unless fixed by statute or some other body);
- Fees and charges should not be used to provide a subsidy from the Council taxpayer to commercial operators;
- There should be consistency between charges for similar services;
- 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 Savings & Transformation Strategy. Attention has been given to the fees and charges applied by neighbouring Councils.

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 and legal executives with over 8 years post qualification experience	£261
Solicitors and legal executives with over 4 years post qualification experience	£218
Other solicitors or legal executives and fee earners of equivalent experience	£178
Trainee solicitors, paralegals and fee earners	£126

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. In respect of the fees set out at 1.3.1 above, the Supreme Court guideline hourly rates may change from time to time, so it is therefore **RECOMMENDED** that the level of legal fees charged by the Council is in accordance with the applicable rates set out in the Supreme Court guidelines. This will avoid the necessity of a further report should the guideline hourly rates change.

1.3 Photocopying Charges

- 1.3.1 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.
- 1.3.2 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.
- 1.3.3 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.
- 1.3.4 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.

1.4 Street Naming and Numbering

- 1.4.1 The requirement to provide a Street Naming & Numbering (SNN) 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.
- 1.4.2 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 circa £45,000 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.

1.4.3 Members had previously agreed for prior years reviews the following priorities were relevant:

- 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.

1.4.4 CPI inflation for September 2023 is 6.7%. The proposals below are based on one increase of 7% effective from 1 April 2024.

Proposed Fee scale for Street Naming and Numbering

1.4.5 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.

1.4.6 Individual flats are considered as individual plots.

1.4.7 *New Properties*

Category	Up to three in-fill properties on an existing street	Current Fee 2023/24	Proposed Fee 2024/25
1	Addressing one new in-fill property	£212	£227
2	Addressing two to three in-fill properties	£110 per property	£119 per property
	Where four or more properties are to be named or numbered, the fee for new developments (below) will be levied.		

1.a.1

	Four or more in-fill properties on an existing street, or new properties on a new street
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3	Fee for naming of a street, other than in relation to new property addressing	£260	£278
4	Fee for addressing plots, including street naming if Required 1- 4 Units	£261 +£40	279+£44
5	5 – 10 Units	£260 +£35	£278+£39
6	11 or more units	£523 +£13	£575+£14

1.4.8 Existing Properties

7	Renumbering an existing property	£95	£102
8	Renaming an existing property, not in a current numbering scheme	£95	£102
9	Registering the addition or change or an alias to a numbered property	£95	£102
10	Removing an existing alias from a numbered property	No charge	No charge
11	Rename an existing street	£1,943	£2,137
12	Rename a block of flats	£1,943	£2,137
13	Fee for addressing units (flats) when splitting an existing property	£128 per unit	£143
14	Fee for addressing a single property when merging separate units	£217	£232

1.4.9 It is **RECOMMENDED** that the above fee Schedule for Street Naming and Numbering be adopted from 1 April 2024.

1.5 Land Charges

1.5.1 Maintenance of the land charges register is a mandatory function of the Council. The Council is required to allow inspection of the register at no cost. This includes inspection by search agents (a “personal search”) which provide a commercial service to people seeking to buy a property (residential or commercial), and more generally those carrying out “due diligence” in relation to a property transaction.

1.5.2 The Council may, however, charge for an official search of the register, which is backed by the Council’s indemnity insurance in the event of there being an error in the search result. The Council is therefore in competition with personal search companies for this fee: if the fee is set too high, it is likely more people will engage a search agent to undertake a personal search rather than pay the Council’s fees.

- 1.5.3 There are two types of search, an “LLC1” search and a “Con 29” form. The LLC1 search looks at 12 separate parts of the register, whilst the Con 29 form is a complementary search setting out a standard set of enquiries agreed by central government, the Law Society and local authorities.
- 1.5.4 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.
- 1.5.5 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.
- 1.5.6 The housing and commercial property market is known to be a volatile area of activity where income can fall, or alternatively increase, quickly.
- 1.5.7 The LLC1 search is due to migrate to HM Land Registry in 2024 and at this point the Council will lose LLC1 income, whilst retaining responsibility to maintain the register. It is envisaged that this loss of income should be accounted for (at least in part) in fee setting for 2024/25 financial year (FY). At present, migration is due to complete in May 2024. Once the migration is complete, officers will need to review the level of fees charged to ensure that they reflect the time spent on dealing with the relevant enquiries.
- 1.5.8 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 2024.
- 1.5.9 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.

- 1.5.10 It is **RECOMMENDED** that the proposed scale of fees for local land charges searches and enquiries set out in **Annex 1** be adopted with effect from 1 April 2024.

1.6 Tonbridge Castle

- 1.6.1 There are three levels of fees at Tonbridge Castle:-

Type 1 “Fixed rate”	Type 2 “Discount / commission when criteria is met”	Type 3 “Events”
<p>Examples</p> <ul style="list-style-type: none"> • Attraction Tickets (Castle Tours) • Vast Majority of Weddings 	<p>Examples</p> <ul style="list-style-type: none"> • Attraction Tickets (Castle Tours – e.g. discount for groups) • School parties (1 place free in 10) • Castle event partners (Partners who book Weddings / Events) 	<p>Examples</p> <ul style="list-style-type: none"> • Events where different levels of commission or fees are negotiated between TMBC and Event Organiser for events on: • Castle Lawn and grounds (where the Chamber is booked as part of a package) • Gatehouse / Council Chamber (Where Partners enter in to an agreement to hold functions and the income to TMBC will vary)

1.6.2 Proposed pricing for Castle tours 2024/25 -

Year	2020/21	2021/22	2022/23	2023/24	2024/25
Adult*	£9.00	£9.00	£9.00	£9.90	£9.90
Concessions* Jun/Senior/Student	£6.50	£6.50	£6.50	£7.15	£7.15
Family Ticket* 2 adults 2 children	£28.00	£28.00	£28.00	£30.00	£30.00
Season Ticket Adult*	£28.00	£30.00	£30.00	£30.00	£35.00

*With other castles charging a lower entrance fee than Tonbridge (Rochester and Upnor) £7.70. We recommend fees being kept at current level for one year, especially with the Tonbridge Castle OSG future plans being formulated.

1.6.3 Additional tour fees 24/25

Item	Cost	Comment
Castle Tour Guide – Commercial	£35.00	One off - charge per tour guide

1.6.4 Proposed fees for schools 24/25

1.6.5 Costs for School Visits does not include VAT.

1.6.6 The key difference between the normal entrance fee which is charge inclusive of VAT, is that you have the audio tour guide included with the price of the ticket.

Year	2020/21	2021/22	2022/23	2023/24	2024/25
Adult	£8.50	£8.60	£8.60	£9.46	£9.46
School Children	£6.00	£6.00	£6.00	£6.60	£6.60
Education Facilities includes toys, dressing up clothes, games, paper, pens and 2 tour guides (1 teacher free per 10 children. For special needs groups, carers admitted free as required)	£90.00	£95.00	£95.00	£104.50	£110

In line with general ticket prices, these have to be lower due to the VAT element.

1.6.7 Ceremonies – fee model – chamber

	2020/21	2021/22	2022/23	2023/24	2024/25	2025/26
Weddings -						
Monday - Thursday	£880	£880	£900	£990	£990	£990
Friday	£920	£920	£940	£1034	£1085	£1085
Saturday	£980	£980	£980	£1078	£1,125	£1,125
Sunday	£980	£980	£980	£1078	£1,125	£1,125
Events like Renewal of Vows/Baby Naming / Wakes						

Monday - Thursday	£330	£330	£330	£363	£380
Friday	£440	£440	£440	£484	£500
Saturday	£550	£550	£550	£605	£630
Sunday	£550	£550	£550	£605	£630

1.6.8 Chamber reception after ceremonies

	2022/23	2023/24	2024/25	2025/26
Receptions -				
Monday - Thursday	£1100	£1210	£1,270	£1,270
Friday	£1350	£1485	£1,550	£1,550
Saturday	£1400	£1540	£1,600	£1,600
Sunday	£1400	£1540	£1,550	£1,550

1.6.9 Ceremonies – additional fees

Additional Ceremony fees	Current cost 23/24	Proposed cost 24/25	Comments
Castle Photo Opportunity – buy 30mins in the Castle 4-4.30pm	£55.00	£60	One off
Wedding Fair Table (single)	£28.00	£30	One Day
Wedding Fair Table (Double)	£55.00	£60	Weekend
Corkage Table	£55.00	£60	One off for a wedding who wish to have tea/coffee drinks/nibbles following the ceremony

1.6.10 Council Chamber

Venue	Current cost 23/24	Proposed cost 24/25	Comments
Chamber Half Day	£110.00	£115	Monday to Sunday
Chamber Full Day	£220.00	£230	Monday to Sunday
Chamber Evening*	£110.00	£225	Monday to Sunday
Castle Conference Room Half day	£83.00	£85	Monday to Sunday

Castle Conference Room Full Day	£165.00	£170	Monday to Sunday
Castle Conference Evening*	£83.00	£195	Monday to Friday *Plus Caretaker Charge

*This fee for 2024/25 includes 5 hours of caretaking cost

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. The Council's costs in taking this recovery action is charged back to the taxpayer as follows:

Court Costs 2023/24			
Tonbridge & Malling	Summons	Liability Order	Total
Council Tax	£55	£45	£100
Business Rates	£120	£60	£180

1.7.2 These charges have not changed since 2009/10. However, Members will appreciate that, despite inflation in recent years, it has not been an appropriate time to uplift them given the impact of the pandemic and the recent economic crisis.

1.7.3 That said, more of our residents are struggling to pay their council tax which requires an increased resource to recover their unpaid debts. Therefore, having reviewed the costs charged by other Kent authorities (table below), I propose to seek the Court's approval to increase the level of council tax costs requested from taxpayers from the current amount shown above to £110 (£60 summons and £50 liability order).

	Council Tax - costs requested			Non Domestic Rates - costs requested		
	Summons	Liability Order	Total	Summons	Liability Order	Total
Ashford	£60.00	£65.00	£125.00	£0.00	£180.00	£180.00
Canterbury	£60.00	£50.00	£110.00	£60.00	£50.00	£110.00
Dartford	£60.00	£50.00	£110.00	£60.00	£50.00	£110.00
Dover	£60.00	£50.00	£110.00	£60.00	£50.00	£110.00
Gravesham	£60.00	£50.00	£110.00	£110.00	£0.00	£110.00
Maidstone	£60.00	£50.00	£110.00	£145.00	£55.00	£200.00

Medway	£80.00	£0.00	£80.00	£80.00	£0.00	£80.00
Tonbridge & Malling	£60.00	£50.00	£110.00	£120.00	£60.00	£180.00
Sevenoaks	£60.00	£50.00	£110.00	£60.00	£50.00	£110.00
Folkestone & Hythe	£46.00	£54.00	£100.00	£109.00	£65.00	£174.00
Swale	£60.00	£43.00	£103.00	£0.00	£103.00	£103.00
Thanet	£60.00	£50.00	£110.00	£145.00	£55.00	£200.00
Tunbridge Wells	£60.00	£50.00	£110.00	£145.00	£55.00	£200.00

1.7.4 This increase will bring us in line with the majority of Kent authorities. I do not propose to increase the level of costs for non-domestic rates as the current amount is appropriate for the recovery action required.

1.7.5 It is **RECOMMENDED**, therefore, that the amount of costs charged in 2024/25 to recover unpaid council tax debts be increased from £100 to £110 as shown in the table.

1.8 Legal Implications

1.8.1 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.

1.9 Financial and Value for Money Considerations

1.9.1 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.

1.9.2 If Members are minded to approve proposals as set out, the additional income to be built into **Estimates for 2024/25** would be as follows:

Budget Heading	Original 2023/24 £	Proposed 2024/25 £
Street Naming and Numbering	40,450	45,000
Land Charges	250,000	230,000
Tonbridge Castle Gatehouse	40,600	33,500
Tonbridge Castle Chamber	27,000	35,000
Local Revenues Summons Costs	250,000	335,000
Total	608,050	678,500

The income above reflects the current levels of demand for the service and shows an increase between years of **£70,450**, which is **£38,500** above the level assumed in the updated MTFs due to be presented to Cabinet in December.

1.10 Risk Assessment

1.10.1 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.

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

- 1) the proposed charges for legal costs as set out in paragraph 1.2.4 be approved;
- 2) 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 be retained as set out in paragraph 1.3.4;
- 3) the Fee Schedule for Street Naming and Numbering as set out in paragraph 1.4 be adopted from 1 April 2024;
- 4) the proposed scale of fees for local land charges searches and enquiries set out in Annex 1 and paragraph 1.5 be adopted with effect from 1 April 2024;
- 5) the fees and charges 2024/25 related to Tonbridge Castle as set out in 1.6 of the report be approved; and
- 6) the amount of costs charged in 2024/25 to recover unpaid council tax debts be increased from £100 to £110 as set out in paragraph 1.7.

Background papers:

Nil

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