

Item No.	Classification Open	Date: 13 February 2013	Decision Taker: Deputy Leader and Cabinet Member for Housing Management
Report title:		Housing and Community Services – Fees and Charges 2013/14	
Ward(s) or groups affected:		All	
From:		Duncan Whitfield, Strategic Director of Finance and Corporate Services, and Gerri Scott, Strategic Director of Housing and Community Services	

RECOMMENDATIONS

1. That the Deputy Leader and Cabinet Member for Housing Management agrees to the proposed variation in charges for housing operations set out in Appendix 1 and specialist housing services set out in Appendix 2.
2. That the Deputy Leader and Cabinet Member for Housing Management agrees to the implementation of the proposed statutory and non-statutory fees and charges for 2013/14 from 1 April 2013.

BACKGROUND INFORMATION

3. This report sets out proposals for fees and charges within the housing and community services department to be set for April 2013/14.
4. The Medium-Term Resources Strategy (MTRS) requires that:
 - Southwark increase discretionary fees and charges to a level, as a minimum, that is equal to the most appropriate London average (e.g. inner London, family, groupings etc.) except where this conflicts with council policy, would lead to adverse revenue implications or would impact adversely on vulnerable clients.
 - To increase all fees and charges capped by statute to the maximum level permitted.
5. The council's constitution requires that all fees and charges increases are agreed by the relevant cabinet member through an IDM report. This report is also required where no changes are proposed.

KEY ISSUES FOR CONSIDERATION

6. Fees and charges are those charges where there is a schedule of rates for services provided. There are two types; mandatory and discretionary i.e. where the authority must charge or where there is a choice of charging. Whether mandatory or discretionary, the charges will be either:
 - Fixed – where the level of charges is set by statute and the authority has no discretion;

- Capped – where a maximum level is set, generally by statute and so charges cannot be set in excess of this; or
 - Flexible – where there is full discretion on the level of charges to be set.
7. Where the authority has a choice about charging, any decision not to charge must be agreed by the relevant cabinet member. This is reviewed annually.
 8. In arriving at the proposed fees, consideration has been given to benchmarking data, market forces, volume assumptions and the sensitivity of demand to any price increases as well as the impact that increases will have on customers' ability to pay and the take-up of services.
 9. The appendixes set out the proposed charges for 2013/14. The fees have been divided into two areas:
 - Operations; and
 - Specialist housing services.
 10. The registrars and coroners service became part of the housing and community services department during 2012/13. However, cabinet responsibility for this service remains with the Cabinet Member for Finance, Resources and Community Safety and therefore does not form part of this report.

Housing Operations Fees and Charges

11. All items in Appendix 1 previously related to the area management division of the housing and community services department.
12. Fees and charges have been increased with a view to limiting the impact upon the majority of tenants but to ensure that fees relating to operational activity represent a reasonable contribution to the expenses and administration of delivering the service such as key and fob provision, lock change and mortgage reference. These charges apply to a relatively small proportion of residents and are in line with last year's increases.
13. It is considered that all parking permit costs still offer good value for money and there is no increase proposed for 2013/14. This income contributes towards the administration of the parking service on estates. There is also no proposed increase for either carer permits or contractor/business/borough permits.
14. Removal and storage of vehicle charges will also remain the same. The cost of these are tied into the new borough-wide parking contract which starts in February 2013. The one parking-related charge that requires updating is to remove the entry for wheel clamping (wheel clamping on private land has no longer been permitted since 1 October 2012 – see below), and to replace this with the Penalty Charge Notice (PCN) which is set by London Councils at £130.00 (£65.00 if paid within two weeks). As this fee is set externally, we have no direct influence over its level.
15. The Protection of Freedoms Act came into force on 1 October 2012 ending clamping and removal on private land. The council can write Traffic Management Orders (TMOs) using the Road Traffic Regulation Act 1984 for car parks and roads – these describe parking restrictions, permit schemes and map their location. The first set of TMOs written for the housing estates by the road

network development team were advertised in November 2012 and came into force in December 2012. The council can then enforce the TMOs using the Traffic Management Act 2004 using PCNs, in the same way as Southwark has done since 1994 on our own highway and car parks.

16. Travellers' Sites – these charges have increased in accordance with recent changes in legislation and reflect the latest RPI position of 3.00% (November 2012).
17. A number of fees and charges now forming part of the specialist housing services division of the housing and community services department were previously part of the community housing services (CHS) division. Other items in Appendix 2 previously related to the home ownership and tenant management initiatives unit.
18. Fees were increased last year following the previous year's (2010/11) freeze. For 2013/14 consideration has again been given to a number of factors including volume assumptions, 2009/10 London Councils benchmarking data (which empirically shows our fees to be in line with other local authorities and therefore reasonable), market forces and the sensitivity of demand to any price increases. The proposed fee increase is in the region of 5.00%, as above, which is then rounded where appropriate.
19. From April 2013 no changes will be made to temporary accommodation local housing allowance rates. That means Local Housing Allowance (LHA) rates will be based on the January 2011 circular for properties that are used to house housing benefit claimants. This is taken from the housing benefit and council tax circular number HB/CTB S1/2011.
20. Temporary accommodation claimants will be treated differently once they have migrated into Universal Credit at which point they will be treated as being a privately-rented sector case regardless of what type of accommodation is used and will be subject to the appropriate LHA rate at that time based on the household composition of the claimant. Only cases within Universal Credit will be treated by the new method, and cases not in Universal Credit will continue along the current rules. Cases will migrate into Universal Credit in line with the migration strategy, which is to be confirmed by central government.
21. At this time no temporary accommodation claimants are affected by these rules as they have not migrated. The migration strategy is a central piece of Universal Credit policy and has yet to be formally confirmed.
22. Service charges for breakfast meals and hostel laundry charges are to be uplifted by 1.00% in line with the national benefit uplift announced by the government capped at an affordable level.
23. Certain charges have had no increase because they are either set by statute, or by outside bodies. These include:
 - Loan Application fee;
 - Notices of assignment and charge;
 - Postage charges; and
 - Legal discharge of charges.

24. The equity loan and equity share schemes were introduced in 2011/12 with their associated fees. Under the provisions of sections 308 and 309 of the Housing and Regeneration Act 2008, which make amendments to the Housing Act 1985, local authorities now have the power to assist leaseholders to meet major works service charge demands in two new ways:
- By providing an equity loan, where the major work service charge cost is offset as a percentage share in the market value of the home as assessed by the council; or
 - By purchasing an equity share in the home, where again, the major work service charge cost is offset as a percentage share in the market value of the home as assessed by the council.
25. This payment option is neutral and the leaseholder will bear the cost of the fees as below:
- With the equity loan and equity share purchase schemes, the legal and plan-drawing fees payable by applicants are based on the fees payable by the council under contracts it holds with the relevant service providers - in this case Paris Smith and Plan London. The fees payable by the council under these contracts were fixed until 31 March 2013 and 1 February respectively, and subject to RPI-related increases thereafter. The increases therefore do not come into effect until a time after this report has been circulated and agreed. It should be noted that the £475.00 and £275.00 legal fees and the £160.00 plan drawing fee specified in Appendix 2 of this report will increase slightly, although based on current RPI trends it is not expected that this increase will exceed 5%.
26. Garage rents were increased substantially in 2011, with a further increase in the private-sector rent level in 2012. The Garage Working Party recommended that rents remain static in 2013/14 to ameliorate the rise in the cost of living and to encourage occupancy, and this recommendation forms part of the Final HRA Budget and Rent-Setting Report to be considered by cabinet on 29 January 2013.
27. The council has statutory powers and duties to provide temporary accommodation to homeless applicants under Part VII of the 1996 Housing Act. Southwark Council uses a variety of accommodation to discharge these duties, including bed and breakfast, hostels, estate voids and private sector leased properties.
28. This report addresses the charges made for temporary accommodation to homeless households which fall within the general fund, i.e. private sector leasing and bed and breakfast accommodation. This report does not address the issue of annual increases for temporary accommodation which is funded through the Housing Revenue Account (HRA) for general and special needs hostels and estate voids. These increases are to be considered by cabinet on 29 January 2013, as part of the HRA Final Budget and Rent-Setting Report.
29. The council will once again set occupancy charges for bed and breakfast for tenants in non self-contained accommodation at £190.38 per week. This is based on the LHA for London and guidelines are taken from the housing benefit and council tax circular number HB/CTB S1/2011. The information within this

circular had an original expiry date of March 2013, but in October 2012 this was extended by circular HB/CTB G10/2012 into 2013/14.

30. For self-contained units and private sector leasing, charges are also based on these guidelines, albeit at higher rates. The guidance outlines rates for one – five bedroom properties and the maximum allowed under the Housing Benefit subsidy rules.
31. The rate for self-contained accommodation is calculated on the size of the unit at 90% of the published local authority housing allowance rate, plus £40 for management costs as outlined in the housing benefit circular.
32. It is proposed therefore, that the occupation charge to residents in bed and breakfast and private sector leasing remains as per Appendix 2 for the next financial year.
33. Homeless applicants resident in bed and breakfast accommodation are charged separately for the costs of breakfast from the occupancy charge. As this amount is not capped by subsidy it is proposed that the charge from April 2013 is increased by 4.85% in line with the average rent increase.

Former Community Housing Services Division

34. Fees and charges previously covered by the community housing services (CHS) division of the department are now split between the specialist housing services division as noted in the relevant section above, or no longer form part of housing and community services. Functions relating to disabled facilities grant, the empty homes strategy, the renewal team, and the Home Improvement Agency are now provided by the environment and leisure department.

Community Impact Statement

35. The council works in accordance with the single public sector equality duty contained within section 149 of the Equality Act 2010. This means the council must have due regard to the need to: eliminate unlawful discrimination, harassment and victimisation; advance equality of opportunity between different groups; and foster good relations between different groups. Guidance on the implications of the Equality Act and the duties it imposes on the council has been issued to service departments and members.
36. In September 2010, cabinet agreed seven principles that will guide its decision-making on the budget. Council assembly added to this in July 2011 by agreeing the policy statement 'A Fairer Future for All'.
37. Consideration has been given to the reports relevance to equality issues in accordance with the public sector equality duty. This report is primarily to set fees and charges, which do not have a differential effect on any community or protected group. It is recognised however that increases in fees and charges may present particular difficulties for people on low incomes.
38. However, ameliorating the effect of this, temporary accommodation rents remain eligible for housing benefit. Certain charges, such as carers parking permits have not been subject to a rise and all other charges are either regulated by statute or compare with the relevant London average.

Consultation/Notification of Fee Increases

39. Consultation is not required on the above fees and charges. However, formal notification of price increase is in certain circumstances. Once approved, notification of fee increases will be published through the appropriate channels.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Director of Legal Services

40. This report recommends that the Deputy Leader and Cabinet Member for Housing Management approve the proposed changes in discretionary fees and charges for the housing and community services department that have not already been agreed for the financial year 2013/14 with effect from 1 April 2013.
41. The report sets out where changes are proposed to existing housing service fees and charges and the reasons for the proposals. Under Part 3D of the council's constitution, agreement of changes to existing fees and charges is reserved to individual cabinet members for decision-making where the fees and charges are within their area of responsibility; housing management and community housing services is within the portfolio of the cabinet member for housing management.

General Fees and Charges

42. Section 21 of the Housing Act 1985 provides the council with a general power to manage its housing stock. This power enables the council to provide such services as it considers appropriate for the better management of its stock.
43. Section 93(1) of the Local Government Act 2003 ("the 2003 Act") enables the Council to charge a person for providing a discretionary service to him if he has agreed to its provision. This power is subject to the proviso that the authority is not authorised to, or expressly prohibited from, charging for the service elsewhere in legislation.
44. The power to charge under the 2003 Act is also subject to a duty to secure that, taking one financial year with another, the income from charges made for the service does not exceed the costs of provision. This duty must be applied separately in relation to each kind of service.
45. The Council is therefore allowed to set the level of the charge for each discretionary service where provision is agreed as it thinks fit within the restriction that the income from the charges for each kind of service must not exceed the costs of its provision.
46. Except where otherwise referred to (and dealt with) below, the Director of Legal Services is not aware of any specific legislative provisions that would prevent the council relying on this charging power for the purpose of those general discretionary housing management and specialist housing services provided to a person who has agreed to its provision.

Fees and Charges relating to Travellers' Sites

47. Section 318 of the Housing and Regeneration Act 2008 that came into force on 30 April 2011 extended the security of tenure and other rights and responsibilities

under the Mobile Homes Act 1983 ('the Act') to gypsies and travellers on local authority sites including provisions relating to pitch fees.

48. The Act provides that certain terms shall be implied into the local authority's agreements with the occupants of the sites. These include provisions as to how and when pitch fees can be changed, and the various matters that may be taken into account when determining the amount of the new pitch fee. These include a presumption that the pitch fee will increase or decrease by no more than the retail prices index since the last review date. The proposed increase of 3.00% is the amount of the latest published RPI, which accords with this implied term.

Fees and Charges relating to Temporary Accommodation

49. As indicated in the report the council has powers and duties to provide temporary accommodation to homeless applicants under Part VII of the Housing Act 1996. Under section 206 of the Housing Act 1996, as amended, the council has power to require a person to whom they are discharging their housing functions under Part VII of the Act (Homelessness), to pay such reasonable charges as the council may determine in respect of the accommodation.
50. Under the terms of the council's standard agreement with occupants of private sector leasing properties, the council may vary the charges made but will need to give occupants four weeks written notification of any changes to the charges. Reasonable notice of changes to charges should be given to occupants of bed and breakfast accommodation.

Strategic Director of Finance and Corporate Services

51. This report seeks authority for approving the fees to be charged by the housing and community services department for 2013/14. It is mostly concerned with fees and charges where the council has discretion over the level to be charged.
52. The Medium-Term Resources Strategy requires that fees and charges are set to a level equal to the most appropriate London average except where this conflicts with council policy would lead to adverse revenue implications or would impact adversely on vulnerable clients.
53. The fees and charges that form this report are a combination of sources of income for either the council's HRA or general fund. Significant HRA income streams such as dwelling rents, non-dwelling rents, district heating charges and fixed service charges for tenants are set via the cabinet report on HRA Rent-Setting and Budget in January each year.
54. Leaseholder service charges are variable and therefore dependent on actual expenditure incurred. Leaseholder major works income is also dependent on chargeable works done and billed according to individual liability. Neither income stream falls within the compass of this report.

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
HRA Indicative Rent-Setting and Budget 2013/14 (item 9, cabinet agenda 11 December 2012) http://moderngov.southwark.gov.uk/documents/33913/Report%20Housing%20Revenue%20Account%20-%20Indicative%20Rent%20Setting%20and%20Budget%20Report%20201314.pdf	160 Tooley Street London SE1 2QH	Paula Thornton Constitutional Officer 020 7525 4395
Housing Services – Fees and Charges 2012/13 (IDM 29 February 2012) http://moderngov.southwark.gov.uk/documents/26689/Report%20Housing%20Services%20fees%20and%20charges%202012-13.pdf	As above	As above

APPENDIX

No	Title
Appendix 1	Proposed Increase for Operations 2013/14 Fees and Charges
Appendix 2	Proposed Increase for Specialist Housing Services 2013/14 Fees and Charges

AUDIT TRAIL

Lead Officers	Duncan Whitfield, Strategic Director of Finance and Corporate Services Gerri Scott, Strategic Director of Housing and Community Services	
Report Author	Shaun Regan, Senior Finance Manager	
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Dated	13 February 2013	
Key Decision?	Yes	
CONSULTATION WITH OTHER OFFICERS/DIRECTORATES/CABINET MEMBER		
Officer Title	Comments Sought	Comments included
Director of Legal Services	Yes	Yes
Strategic Director of Finance and Corporate Services	Yes	Yes
Cabinet Member	Yes	Yes
Date final report sent to Constitutional Team	13 February 2013	