

Item No. N/a	Classification: Open	Date: 2 October 2019	Meeting Name: Cabinet Member for Jobs, Business and Innovation
Report title:		Supply Chain Fees and Charges for Adult Learning 2019-2020	
Ward(s) or groups affected:		All	
From:		Nina Dohel, Director of Education	

RECOMMENDATIONS

1. That the Cabinet Member for Jobs, Business and Innovation approves the supply chain fees and charges of the grant funding allocation for the academic year 2019/20.
2. That the Cabinet Member for Jobs, Business and Innovation notes that the implementation date for the recommendation is 1 August 2019 (start of academic year 2019/20).

BACKGROUND INFORMATION

3. The Southwark Adult Learning and Community Service is currently funded by the Education and Skills Funding Agency (ESFA) to deliver adult learning courses. The funding allocation is made on an annual basis and monies are paid for the achievement of contractual targets set out in the funding contract between the council and the ESFA.
4. The Southwark Adult Learning and Community subcontracts part of the ESFA funding allocation to five external providers (in 2018/19). These subcontracted partners are paid to deliver adult learning provision to Ofsted and ESFA standards and expectations.
5. The Southwark Adult Learning and Community retains a proportion of the ESFA funding allocation to cover the costs of management, administrative and quality assurance support provided to the subcontracted partners.
6. The ESFA requires all its directly funded providers to publish their fees and charges policy. The policy needs to cover the monies (costs) retained by the lead provider.
7. The ESFA has now devolved the adult education budget (AEB) to the Mayor of London for the London region. The 2019/2020 funding allocation has been confirmed by the GLA.
8. The GLA too requires providers to publish their approved supply chain fees and charges.

KEY ISSUES FOR CONSIDERATION

9. Fees and charges are those charges where there is a schedule of rates for services provided. There are various types, namely mandatory and discretionary, that is, where the authority must charge or where there is a choice of charging or not. 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 above this level, or*
 - *Flexible – where there is full discretion for the level of charges to be set.*
10. Where the authority has a choice about charging, any decision not to charge must be agreed by the relevant cabinet member. This will be reviewed annually and will be considered within the context of the overall budget position.
11. This report only seeks approval for charges which are Flexible (discretionary) or where fees are capped.
12. In arriving at the proposed fees and charge levels, consideration has been given to a number of factors, including volume assumptions, market forces and sensitivity i.e. the impact that increases will have on its customers' ability to pay and the take-up of services. Another factor taken into account is that, whilst Southwark may have discretion over the level of fees set, in many cases, this is on a cost recovery basis and must be reasonable. The cost of management, procurement, administrative and quality assurance support for subcontracted provision has therefore, also been a consideration in arriving at the proposed supply chain fees and charges.

Policy implications

13. The recommendations in this report will enable the Southwark Adult Learning and Community to deliver learning opportunities which are in line with the Southwark Skills Strategy and the council Digital Skills Strategy.
14. The recommendations in this report are aligned with the council commitment to "A fairer future – A full employment borough" as described in the council plan 2018-2022."

Community impact statement

15. One of the key considerations in recommending that the supply chain fees and charges are set for the next academic year, 2019/20, is the need to follow the council's corporate commitments to support the local voluntary and community sector organisations.

Resource implications

16. None.

Legal implications

17. Please see the concurrent report of the Director of Law and Democracy below.

Financial implications

18. See paragraphs 27 and 28, 29.

Consultation

19. Consultation is not required on the above fees and charges. However, formal notification of price levels is required. Once approved, notification of fees and charges levels will be published through the appropriate channels including the Adult Learning Service web pages on the Southwark council website: www.southwark.gov.uk.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Director of Law and Democracy

20. The Cabinet Member for Jobs, Business and Innovation is asked to approve the recommendations of this report. The recommendations will take effect on 1 August 2019, if approved.
21. Section 93(1) of The Local Government Act 2003 enables the council to charge for providing discretionary services. The power in the Act is subject to the requirement that the authority is not prevented from charging for the services elsewhere in legislation. The Director of Law and Democracy is not aware of any specific legislative provision which would prevent the council relying on these powers to charge.
22. The power to charge for a service under the Act is also subject to the duty to make sure that taking one financial year with another, the income from charges made from a service does not exceed the cost of the provision of the service.
23. The council is, therefore allowed to set the level of the charge for each discretionary service that it thinks fit and considers reasonable, subject to those charges not exceeding the costs of the provision. Paragraphs 5 and 14 explain the purposes for which the retention from the GLA/ ESFA allocation is required.
24. The report confirms that there is no legal duty to undertake consultation on the proposed fees and charges but that appropriate notification will be given. Officers should ensure that all forms of notification explain how and to whom any complaints or queries should be made.
25. The approval of the supply chain fees and charges sought in this report is a matter reserved to the Cabinet Member for individual decision making in accordance with Part 3D paragraph 3 of the council's constitution.
26. In making such a decision, the council must ensure that it complies with the Public Sector Equality Duty imposed by the Equality Act 2010, which includes a requirement to undertake an equality analysis in order to demonstrate that it has had "due regard" to the implications of its decision and how that might affect different groups of people within the community. Whilst formal consultation is not

required, this report sets out the factors which have been taken into account in order to satisfy that statutory duty and to recommend the level of fees and charges which are to apply from 1 August 2019.

Strategic Director of Finance and Governance

27. This report is requesting the Cabinet Member for Business, Culture and Social Regeneration to approve up to 15% retention of the grant allocation for management and some additional charges at cost e.g. software licence and auditing etc. The grant is audited as part of the claim and contract process associated with the procurement and contracting of course providers for the academic year 2019-20 with an implementation date of 1 August 2019.
28. The strategic director of finance and governance notes the level of grant allocation for adult learning in 2019-20 at £1.449m is approximately the same level as in 2018-19.
29. If the grant funding allocation was to be reduced then the service will reduce the cost of the service it provides or identify alternative sources of funding.

Other officers

30. None

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
None		

APPENDICES

No.	Title
None	

AUDIT TRAIL

Lead Officer	David Quirke-Thornton, Strategic Director for Children's and Adults' Services	
Report Author	Dolly Naeem, Head of Adult Learning, Children's and Adults' Services	
Version	Final	
Dated	2 October 2019	
Key Decision?	Yes	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments Sought	Comments Included
Director of Law and Democracy	Yes	Yes
Strategic Director of Finance and Governance	Yes	Yes
Cabinet Member	No	No
Date final report sent to Constitutional Team		2 October 2019