

Review of Fees and Charges **Issues to Consider in Scoping the Review**

Introduction

On 12th October 2005, the Scrutiny 2 Committee received a report on Fees and Charges, and identified the need to:

- undertake a review of the Council's approach to setting fees and charges;
- identify the Council's income trends;
- conduct a benchmarking exercise against other Councils;
- prepare a draft fees and charges policy for presentation to the Council's Resources Committee;
- establish a process that integrates regular reviews of fees and charges with the determination of the Council's budget.

In order to achieve these outcomes, four Members of Scrutiny will team up with representative officers to progress the issue, with the objective of identifying a more strategic and structured approach to setting fees and charges into the future.

Background

Local authorities exist primarily as spending rather than income-generating entities. It is probably for this reason that there is no uniform national policy governing the use of charges by local authorities.

The availability of information about councils' fees and charges is limited. National accounting conventions on charging tend to be rather vague, and local government statistics do not provide any worthwhile level of detail about income generation.

Charging for services has to serve many different functions. These include:

- raising revenue,
- covering costs,
- the need to meet financial targets or required rates of return on assets,
- putting into check the potential abuse of services,
- the need to target subsidy in the pursuit of equity, and
- efficiency in the provision and use of services.

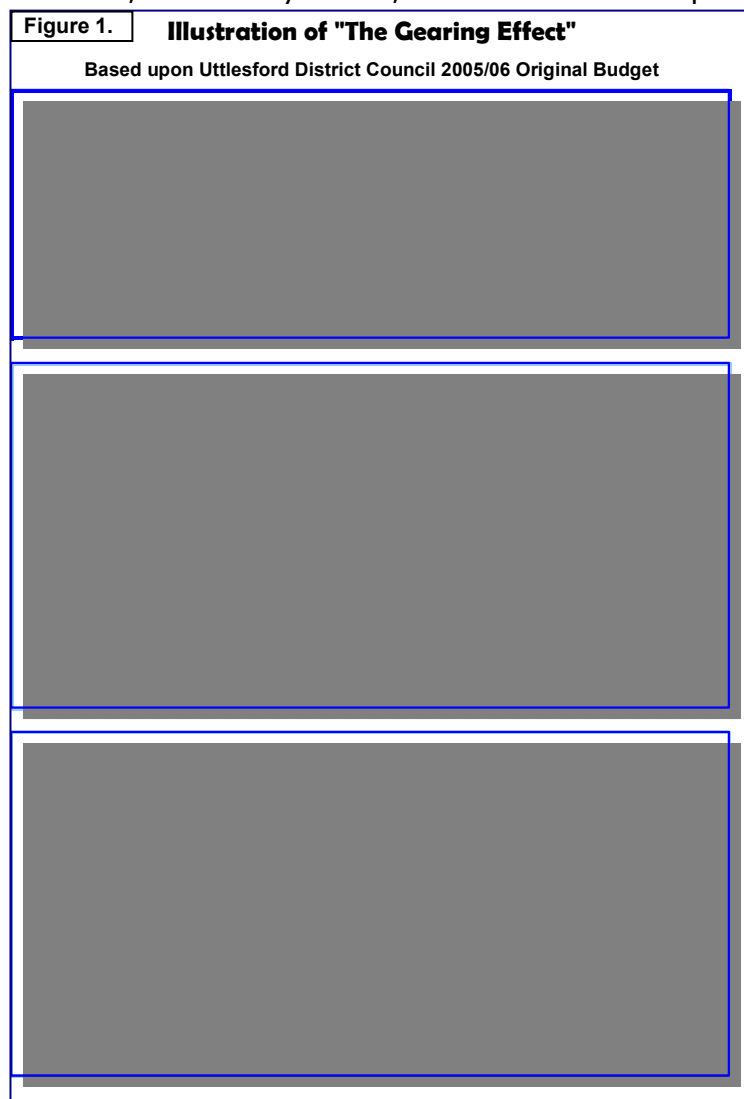
In consideration of service efficiency and value, where consumers have a choice of whether to pay for a service or not, the provider of the service can accurately judge the real level of demand simply by measuring income trends and returns. Thus, it follows that realistic charging policies help to improve the efficient use of services, and therefore offer potential to become strategic financial and economic instruments for the achievement of best value in the provision of local government services.

One of the functions listed above relates to covering costs. The relationship between income and costs is important because of the effect of inflation and new cost pressures. Whenever the Council decides not to increase charges for a given service annually, the net cost of that service will rise year-on-year. Essentially, failing to apply charge increases in line with cost increases places additional pressure upon the Council's overall budget.

There is a further and less obvious reason to ensure the adequate control of fees and charges. Some sources of grant funding, for example Lottery funding, require recipients to demonstrate that they can generate the necessary revenue to run capital projects. In such instances, it is important to prove and sustain appropriate income generation in order to ensure the longevity of any given grant-funded scheme.

Finally, income generation can help to cushion the effect of local taxation. The Balance of Funding Review, commissioned and chaired by Local Government Minister, Nick Raynsford, commenced in April 2003 to consider the balance of

funding. The primary purpose of the review was to examine the problem of "gearing".



Gearing stems from the fact that, at the time of the Balance of Funding Review, local authorities generally received about 75% of grant funding of their budget requirements from Government grant. The balance of funding (25%) was collected from local taxpayers. This means that, if a local council needs to incur additional expenditure in its net budget, the strain of the increased spend is met entirely by local tax payers. In essence, for every 1% increase in local authorities' spending, councils would need to increase Council Tax by 4%. In other words, it produces a gearing ratio of 4:1.

An example of gearing is illustrated in **Figure 1** (left), and is based upon Uttlesford District Council's requirements to fund its revenue budget for 2005/06. It is important to note that, in the case of Uttlesford District

Council's current budget requirement, the gearing ratio is not as pronounced as that

identified by the Balance of Funding Review described above, which encompassed councils across the country.

In the illustration, two potential scenarios are shown. In the first scenario, the overall budget simply increases by an assumed inflation rate of 2%. Government grant is also assumed to increase by 2%, with the result that Council Tax increases by 2%. But in the second scenario, not only has 2% inflation been applied to the overall budget and to government grant, the Council increases its expenditure by 1% too. Since there is no additional government grant to fund this, the Council needs to increase its Council Tax by 3.7%. Therefore, the gearing ratio in the example is 1.7% (being the difference between the 3.7% local taxation increase and the inflationary increase of 2.1%).

By considering income generation, we might turn this picture on its head. Changing the balance of funding in favour of more locally-raised revenues (fees and charges instead of Council Tax increases) could reduce the difficulties caused by the 'gearing effect'. Thus, maximising income from fees and charges could reduce the net revenue budget which, in turn, would reduce, or eliminate, the gearing effect on local taxpayers, and might even reduce the potential risk of capping.

However, any charging policy must be viewed in the context of the Council's powers to provide services and to apply charges. The Council must, therefore, have due regard for statutory restrictions governing charging by local authorities, which is referred to below.

As such, charges help to 'bridge the gap' between the spending needs of local councils and income they receive from local taxes and government grants

Legal Restrictions on the Use of Charges

Any review of charges for services must have regard to specific legislation which may apply in each case, and will require the advice of the Executive Manager (Corporate Governance). The legal considerations are extensive, and although they cannot be covered in detail within this paper, some of the immediate considerations are outlined below for information. They begin to illustrate the limitations to extending the existing activities financed by fees and charges.

Legislation exists that prohibits local authorities from making certain charges. For example, the 1989 Local Government and Housing Act together with other statutes currently in force stipulate a number of public services for which charges cannot be levied. These are:

- core education services in schools;
- core library services;
- fire fighting;
- core police services;
- electoral registration and the conduct of elections.

Legal Powers to Charge

The Local Government Act 2003 provides a new general power for Best Value Authorities to charge for **discretionary services** provided under well being powers , which are referred to in the Local Government Act 2000. Services that an authority is mandated to, or has a duty to provide, are not discretionary and charges cannot be made for such services. However, additions or enhancements to such mandatory services above the level or standard that an authority has a duty to provide may be discretionary services.

This is potentially confusing since national minimum standards are not established for most local government services. Such charges may be subject to legal challenge. Therefore, in making charges under the 2003 Act, the Council needs to satisfy itself that additions or enhancements to such mandatory services are above the level or standard that the authority has a duty to provide before they can be regarded as discretionary services.

The key features of the 2003 Act's new charging powers are that:

- authorities must already have the power to provide the service;
- use of the charging power is at the discretion of individual authorities and they may, if they wish, provide discretionary services free of charge to the user;
- the new powers do not override any other legislation prohibiting charges and should not be used in breach of the Competition Acts relating to unfair trading practices etc;
- income from charges must not exceed the costs of provision (it is suggested that this be calculated with reference to the CIPFA definition of total cost in its CIPFA Best Value Accounting Code of Practice), over a reasonable period of time (between, say, one and three years);
- the recipient of the discretionary service must have agreed to its provision and to pay for it;
- different people can be charged different amounts, discounts being allowed for prioritised groups;
- the Secretary of State retains a reserve power to disallow the new charging power, for example where unfair competition or commercial rates of return occur or where such charges are deemed not in the public interest.

Common Issues to Consider in the Determination of a Charging Policy

Scope of services for which charges can be made – due regard has to be taken of legal considerations.

Charging levels - Councilors will need to be able to justify a charge and set appropriate pricing strategies that are clear and as simple as possible.

Quality of Service – there should be a relationship between the costs of a given service and the quality of service delivery, while the usual principles of value for money should also apply.

Degree of cost recovery – Generally speaking, a local authority can recover income up to the level that it costs to provide a given service. There are exemptions to this, such as where charging levels are statutorily set, or where the authority chooses to under-recover its costs or, conversely, where special powers exist to over-recover, such as in relation to car parking income and the decriminalisation of parking. Perhaps of greatest importance is the need to ensure that the level of charge is set at a level deemed to be fair.

Exemptions and Concessions – this is linked with an individual’s ability to pay. Exemptions may be established on the basis of “means testing” (where a decision is made as to whether person’s income is adequate or inadequate to justify payment), or on the basis of “categoric exemption” (by which people receive a service free of charge or at a reduced rate by virtue of belonging to a particular societal group).

Enforcement and Collection - Most charges are paid at the point of service delivery, such as admissions to leisure and recreational facilities. Some may be paid after delivery, such as council house rents, while others are paid in advance, such as weekly or monthly tickets for public transport. For a local authority, the most problematic are charges paid after service delivery.

Performance Monitoring – this can determine the level of useage and hence the requirement for continuation of a chargeable discretionary service.

The Council’s Current Income Generation

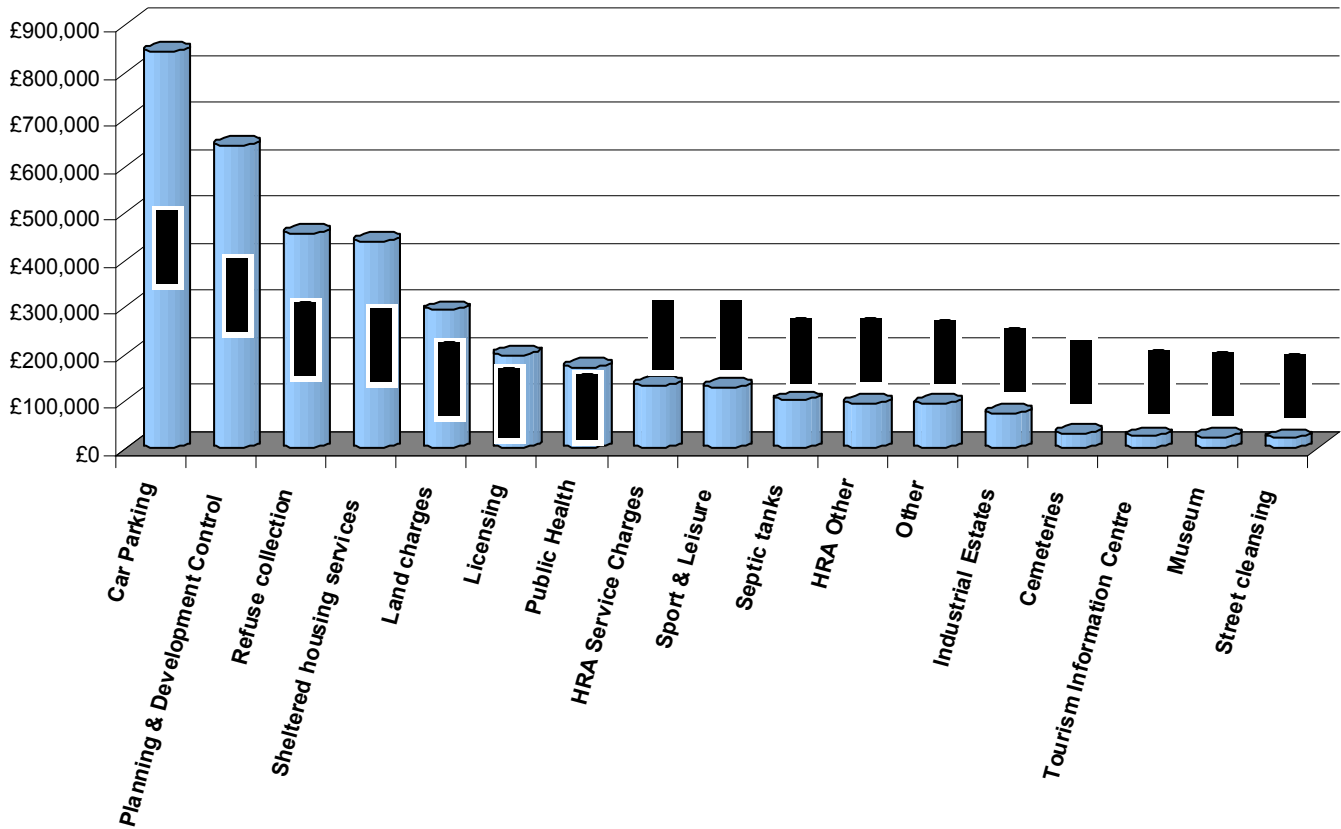
The District Council’s General Fund budget is financed by a range of income sources:

- Revenue Support Grant
- Council Tax
- National Non-Domestic Rates
- Other Government Grants
- Non-Government Grants
- Interest and Investment Income
- Fees and Charges

This review will only consider Fees and Charges. However these, alone, cover numerous activities. The initial intention of the scoping exercise is to identify and examine the most significant sources of fees and charges to enable a manageable review to be undertaken. Ultimately, however, the resulting Council’s Fees and Charges policy should encompass all charging activities.

The chart on the following page (**Figure 2**) shows the distribution of income from fees and charges across services for Uttlesford District Council. Data has been extracted from the Council’s Budget Book for 2005/06 (including fees and charges in the Housing Revenue Account, but excluding housing rents) and is classified into major headings. A full analysis of budgeted fees and charges income for 2005/06 is shown in **Appendix 1** to this report.

Figure 2. Analysis of Income for Uttlesford District Council



Source: UDC Budget Book 2005/06

From the chart, the main sources of income can be identified.

Conclusions

- Charging exists in an increasingly complex policy environment, involving legal, political and financial factors and the ability and willingness of service users to pay the charge.
- It is important that the clear legal authority for the imposition of charges is established. Careful regard needs to be taken of legal constraints if the review is to identify potential new income sources or increased charging levels.
- The depth of the review will be significantly influenced by the availability of staffing resource to support the required research and policy formulation.
- Consideration should be given as to how best to ensure proper consultation. The requirements of Best Value also extend the need to Consult to include the need to, Compare, Challenge and Compete.

Sources of Information

Uttlesford District Council Budget Book – 2005/06

Uttlesford District Council Financial Management System

C.I.P.F.A. Technical Information Service

ODPM - General Power for Best Value Authorities to Charge for Discretionary Services – Guidance on the Power in the Local Government Act 2003