

## Cabinet (Resources) Panel

16 November 2022

<b>Report title</b>	Policy to enable cost recovery of Enforcement Action in Licensing	
<b>Decision designation</b>	AMBER	
<b>Cabinet member with lead responsibility</b>	Councillor Steve Evans City Environment and Climate Change	
<b>Key decision</b>	Yes	
<b>In forward plan</b>	Yes	
<b>Wards affected</b>	All Wards	
<b>Accountable Director</b>	John Roseblade, Director City Housing and Environment	
<b>Originating service</b>	Commercial Regulation	
<b>Accountable employee</b>	Chris Howell	Commercial Regulation Manager
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<b>Report to be/has been considered by</b>	City Housing and Environment Leadership Team	25 October 2022

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### Recommendations for decision:

Cabinet (Resources) Panel is recommended to:

1. Approve the Commercial Regulation Cost Recovery policy, for implementation from 1 April 2023.
2. Delegate authority to the Cabinet Member for City Environment and Climate Change, in consultation with the Director of City Housing and Environment, to approve the addition of discretionary services within Commercial Regulation that will utilise the cost recovery method outlined in the Commercial Regulation Cost Recovery policy.

### Recommendation for noting:

Cabinet (Resources) Panel is asked to note:

1. The application fees for various licences, permits, registrations and consents, and discretionary charges within the Commercial Regulation services shall be reviewed each year in accordance with the policy.

## 1.0 Purpose

- 1.1 To seek authorisation to adopt the Commercial Regulation Cost Recovery, at Appendix 1, a policy of cost recovery ensuring transparency for all fees, charges and costs levied by Commercial Regulation services.
- 1.2 To inform Cabinet (Resources) Panel of the rationale behind the cost breakdown in the Commercial Regulation Cost Recovery policy to assist their decision in approving the policy for implementation.

## 2.0 Background

- 2.1 As part of the Council's services to the public, Commercial Regulation Services are responsible for protecting people's health, safety and wellbeing as well as the environment and amenities. They are responsible for promoting economic growth and employment opportunities. In doing so, a cost is incurred by the Council. Where the service the Council provides is discretionary, a charge can be levied so that the authority can recover the costs of providing services, or improvements to services, that they might not otherwise have been able to justify providing or have been able to provide. Court costs can also be recovered where the defendant has been found in breach of the law.

## 3.0 Proposed cost recovery

- 3.1 It is recommended that the hourly charge basis for all cost recovery and fee setting shall include the additional costs outlined below:

Direct Costs	Indirect Costs
Salary	Premises and Office Costs
On-costs (Superannuation and National Insurance)	Central Function Costs (i.e., HR and Finance) Governance and Management Costs

An example for a Grade 7 Officer is shown below

Grade	Cost	Cost per hour*
7	Salary, Superannuation, and NI per hour	£56.15
	Service Recharge costs per hour (Indirect Costs)	£21.25
	Total Cost per hour	£77.40

3.2 A review has been undertaken of the Direct and Indirect Costs across Commercial Regulation. The resulting hourly rates for Officers Grade 4 to Grade 9 across all services were then simplified into an average for each salary Grade and rounded down. This summary of hourly rates for Grades 4 to 9 can therefore be applied, where legislation permits, to licences, permits, registrations and consents, and discretionary charges across Commercial Regulation, simply and effectively.

<b>Grade</b>	<b>Example Roles</b>	<b>Cost per hour*</b>
<b>4</b>	Licensing Officer, Business Support Officer (Admin)	£46.00
<b>5</b>	Compliance Officer, Senior Licensing Officer	£55.00
<b>6</b>	District Officer, Legal Executive	£66.00
<b>7</b>	Senior Environmental Health, Trading Standards Officer, Section Leader, Senior Legal Executive	£77.00
<b>8</b>	Service Lead, Solicitor	£84.00
<b>9</b>	Licensing Manager, Lead Lawyer	£92.00

3.3 In order to ensure Council services accurately provide value for money, the exercise outlined in 3.2 shall be carried out on an annual basis and a revised Commercial Regulation Cost Recovery policy document published.

#### **4.0 Evaluation of alternative options**

4.1 The alternative option is to not implement the policy. This would result in the Council not recovering contributions to costs. The setting of fees and discretionary services could be adjudged to be arbitrary and lacking in transparency. This option has been rejected as the impact on the services will result in a disparity between the revenue and the Council resource time spent delivering.

#### **5.0 Reasons for decision**

5.1 The adoption of this policy sets out the Council's principle of being fair and equal. The setting of fees and discretionary service charges together with court cost recovery is clearly shown with the policy.

5.2 The policy enables greater confidence in the service through open and transparent costings.

## **6.0 Financial implications**

6.1 There are no direct financial implications with the recommendations of this report. However, this policy would result in the generation of fees and charges which will be subject to separate annual reports to review fees and charges in line with the constitution.

[LD/14102022/J]

## **7.0 Legal implications**

7.1 For costs incurred by legal proceedings, The Civic Procedure Rules 1998 establish that usually the loser pays the winner's costs in Civil matters. For criminal matters, Section 64 of the Magistrates Court Act 1980 allows a party to ask the Court to award costs against another at the conclusion of a trial.

7.2 For general charging of costs, Section 93 of the Local Government Act 2003 (LGA 2003) gives relevant authorities the power to charge for discretionary services. These are defined as those services authorised by statute that a local authority is not required to provide but may do so voluntarily (Section 93(1)(a), LGA 2003).

7.3 Legal authority for general charging of costs (giving the local authority capacity to act) can come from Section 111 of the Local Government Act 1972 authorising the provision of a service to facilitate the discharge of a specific function (using Section 93 to do so). Otherwise, the Localism Act 2011 confers a power on local authorities to charge the individual for providing a service under the general power of competence if:

- a) The service is not one that is required to be provided under an existing statute (Section 3(2)(a))
- b) The individual has agreed to the service being provided (Section 3(2)(b))
- c) There is no conflict between charging powers provided in Section 93 of the LGA 2003 and the general power to charge provided in the Localism Act 2011.

[DA/20/10/2022/2]

## **8.0 Equalities implications**

8.1 An initial Equalities Analysis has been completed. This indicates a full equality analysis is not required.

## **9.0 All other implications**

9.1 There are no other implications arising from this report.

## **10.0 Schedule of background papers**

10.1 None

## **11.0 Appendices**

### 11.1 Appendix 1: Commercial Regulation Cost Recovery – draft policy