

To: City Executive Board

Date: 21 September 2011

Report of: Executive Director City Services

Title of Report: Income Generation through service supplies to public sector bodies and Charging for Discretionary Services

Summary and Recommendations

Purpose of report: To provide an update on the approach proposed to take forward the proposal contained in the Council 2012 strategy that the Council seeks to optimise income, thereby reducing net costs to the Council through trading.

Key decision? No

Executive lead member: Cllr Bob Price

Policy Framework: Efficient, Effective Council

Recommendation(s):

City Executive Board is recommended to:

(a) Approve the overall framework for charging third parties for discretionary services as outlined in this report;

(b) Approve the overall framework for the supply of goods and services to other public bodies as outlined in this report;

(c) Delegate the decision on whether to enter into arrangements with private sector bodies under which the Council would charge for services provided within or outside the City to the relevant director, provided that the value of such arrangements do not exceed £100,000.

(d) Delegate the decision on whether to enter into arrangements with other public bodies under which the Council would provide goods and/or services to such other public bodies within or outside the city but within Oxfordshire to the relevant director, provided that the value of such arrangements do not exceed £100,000.;

Appendix 1	Legal implications of Charging and Trading.
Appendix 2	Risk Assessment
Appendix 3	Equalities Impact Assessment
Appendix 4	Charging & Trading Hierarchy of Risk diagram

1 Introduction

The Council has been charging for discretionary services, quite legitimately, for many years. Obvious examples include trade waste collections, pest control and more recently charging for planning advice.

What is proposed in the “Council 2012” strategy sees this rather opportunistic largely historically based approach being developed into a focused strategy determined to raise income for the Council to offset the current cost of services. With this switch and increased opportunity comes increased risk.

This report sets out how officers intend to minimise and manage that risk and make the most of the opportunities to increase income.

Whilst it is unlikely that the “Localism Bill” will provide any relaxation of the rules around trading, the intent is to derive income within the existing powers and legal constraints without setting up an “arms length” company specifically to trade.

This means that our focus will be on charging for discretionary services on a cost recovery basis but charging on a cost recovery plus basis with other public sector bodies.

2 Legal implications

The Corporate Management Team recently reviewed the legal implications of trading with the attached paper from the Head of Law and Governance (Appendix 1). This shows that we need to be careful when using the term trading as what we are intending, at least in the short to medium term, is to extend our charging for discretionary services and provision of services to other public sector bodies.

3 Financial implications

No specific sum has been placed in the budget to be attained through trading. However, the expectation clearly exists.

The overall intent is to maximise the benefit to the Council and residents by generating income predominantly from the use of surplus capacity thus reducing unit overhead costs and therefore the cost of services.

Raising income does bring with it risk. The main risks are not covering costs in prices charged and contractual risks.

It is therefore proposed that charging only takes place where:-

- There is a clear understanding of direct costs
- Proposed charges cover direct costs and make a contribution to overheads
- Proposals to enter into contracts for the provision of services have a sound business case which has had input from Finance and Legal and been approved by the relevant director and, for major projects (i.e. over £100k), CEB.

It is important that the risk is understood and managed and a risk analysis is given in Appendix 2. However, it is also important to give service managers sufficient scope within an appropriate framework to set charges to meet the particular circumstances and therefore key delegations are sought to enable officers to operate effectively.

4 Approach to Income Generation

There is a clear hierarchy of complexity and risk associated with trading which is represented in the diagram at Appendix 4.

This starts with the lowest risk – ensuring that where the Council has competency and capacity all internal work is carried out by the Council's own workforce. This though must be subject to a test that such internal supply provides value for money in the same way that it applies to all of the Council's services. Essentially this is achieved through benchmarking, market intelligence and service reviews..

The second level is recovering costs from the “public” for the provision of discretionary services. This is an area where we are currently expanding income generation eg green waste, and pest control. Areas where we might want to expand further include, tree maintenance for the public, gas servicing and electrical testing in the private rented sector. This work would be carried out under the provisions of s93 Local Government Act 2003. Services provided under these provisions must comply with fairly strict accounting provisions, under which income should equal expenditure over a three year period..

The third area is “trading” with other public sector bodies. This work would be carried out under the provisions of s1 Local Authorities (Goods and Services) Act 1970. At one extreme this is trivial eg the one off servicing of a vehicle for the County Council. At the other is a complex business proposition regarding taking on additional resources or transfer of assets and staff. Such a proposition would need careful evaluation of the business case and proper approval in accordance with our constitution and financial regulations.

At this stage we are not proposing to move into the more risky and costly to set up “commercial” trading area which would necessitate the Council setting up an arms length trading company (n.b. activities where we have a duty to provide services to the private sector e.g. trade waste do not require this

separate trading entity to continue). This approach requires a formal business case in a format set by Government to be approved. The intention being to ensure that as the arms length company is essentially owned by the Council there is a proper appreciation of the risks as well of the potential benefits of the trading envisaged. There are mechanisms available to limit financial liability however these do not deal with reputation and operational risks.

To minimise risks one option is to cause to be set up or contract direct with an existing non profit distributing organisation. This isolates the Council from the risk but the construction of such entities ensures that the Council would have no control over this type of independent organisation. The Council may place a minority of Members of the board of the organisation however those members then face a conflict of interest as they would be under a duty to act in the interests of the organisation, not the Council, when acting in that capacity.

This is a complex area and it is important that an in depth options appraisal is carried out to fully understand the implications of any proposals to deliver services through arms length or non profit distributing organisations and to weigh these against the tried and tested route of charging for discretionary services.

Management control over legal, financial and commercial risks would be exerted primarily through an assessment matrix. See Appendix 5. For “trading” to proceed this would need to be authorised in accordance with the Council’s constitution and financial regulations.

5 Geographical Constraints

The intent is that the overwhelming majority of services are provided inside the City boundaries, but in certain circumstances it may be that working or partnering with other public bodies who are outside the City is desirable. Equally there could be very practical reasons where provision outside City boundaries (e.g. Trade Waste route optimisation) is sensible. It is therefore recommended that this geographic constraint is removed..

6 Staffing implications

The intent is that chargeable services are provided initially predominantly from the surplus capacity that exists inside the current infrastructure and management capacity. A requirement to increase resources to satisfy demand would be subject to scrutiny by the Corporate Management Team through the Employment Control Form process and via the business case. However, if this strategy is successful it may well provide opportunities for the expansion of employment opportunities including apprenticeships and work experience.

Surplus capacity within the organisation would only be maintained where direct costs could be covered and a contribution to overheads achieved, otherwise surplus capacity would be reduced.

7 Climate Change / Environmental Impact

It is not expected that provision of additional chargeable services by the council would have a negative environmental impact as these services would in any event have been demanded but satisfied by other providers.

If we expanded operations significantly, this might have a notable impact on Oxford City Council's overall carbon footprint. This would have to be considered in the business case.

8 Equalities Impact

No significant impacts have been identified. An Equalities Impact Assessment is attached as appendix 3. However, in increasing employment opportunities we would take the opportunity to attempt to enhance the ethnic mix of our workforce to match the community we serve and provide opportunities through apprenticeships and the like. We would also reflect on the Council's charging strategy in setting fees and charges and consider whether concessions are appropriate for particular services when provided direct to individuals.

9 Financial Summary

The aim of the Council 2012 strategy in this respect is to increase income and therefore reduce the overall cost of services provided by the Council. We would seek to ensure financial performance through approval and monitoring of business cases. The majority of activities are likely to fall within the remit of the Direct Services Board who will review contracts and financial performance. The officers intend to review the financial regulations to ensure that they reflect the approach recommended in this report and give adequate guidance and protection to officers and the Council.

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