

Forward Plan reference number: Not applicable

Report title: Addition to the Fees & Charges policy – refunds	
Report to: Councillor Christopher Whitbread – Cabinet Member for Finance	
Report author: Nicole Wood Executive Director for Finance and Technology	
Date: 23 July 2020	For: Decision
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County Divisions affected: All Essex	

1. Purpose of Report

- 1.1 To agree that a new policy statement be added to the fees and charges policy, giving specific reference to refunds for all fees and charges related to booked future events, excluding Adult Social Care. This will allow a service to vary the standard terms and conditions and offer a full refund should cancellation be outside the control of the customer or the Council as a direct result of government restrictions, advice or a pandemic, such as Coronavirus. This will provide confidence to residents, businesses and public sector organisations (“customers”) in council services and help support economic recovery.

2. Recommendations

- 2.1 That a new policy statement be added to the fees and charges policy, giving specific reference to refunds.

3. Summary of issue

- 3.1 Income from fees and charges is an important component of the Council’s funding mix. The 2020/21 original budget for fees and charges is £131m, of which £38m is for services outside of Adult Social Care.
- 3.2 The Council’s fees and charges for 2020/21 budget are published on the website. They are reviewed on an annual basis and agreed by officers or by the relevant Cabinet Member. www.essex.gov.uk/spending-and-council-tax/finance-and-spending-breakdowns
- 3.3 The current Coronavirus outbreak has had an adverse impact on income received from fees and charges, mainly due to services having to close due to lockdown. This has been acknowledged by the government following the announcement of a co-payment scheme that will compensate councils for irrecoverable income losses from sales, fees and charges. The new income loss scheme will involve councils absorbing losses up to 5% of their planned sales, fees and charges income, and government compensating them for 75p in every pound for loss thereafter. Detailed guidance is yet to be released.

- 3.4 As lockdown restrictions are eased and services have re-opened, the Council needs to consider how to stimulate economic recovery and encourage customers to book with confidence. In order to provide more confidence, the Council has considered its approach to refunds in a pandemic situation.
- 3.5 The fees and charges policy does not specifically cover refunds. The eligibility conditions for a refund are set out within the Terms and Conditions for each individual fee or charge. However, as part of the Council's response to the Coronavirus pandemic, a fees and charges protocol was developed and determined that any change to Terms and Conditions in relation to refunds should require approval by the relevant functional Executive Director and Cabinet Member.
- 3.6 This report is recommending that an additional policy statement be added to the fees and charges policy, giving specific reference to refunds as detailed below.

"Policy Statement 18: All fees and charges related to booked future events should have a transparent and published refund policy setting out eligibility for a refund upon cancellation by the customer or the Council. This would typically be included in the Terms and Conditions for that fee or charge.

- a) The refund policy is set by the service, typically as part of Terms and Conditions of the fee or charge. When setting the level of refund to be given the service will take into account any administrative costs associated with cancellation, the industry norm for refunds, the length of time between the cancellation and the date upon which the event was booked to take place and any other service specific considerations.
 - b) Where the Section 151 Officer agrees that the circumstances of cancellation are due to restrictions and advice provided by government, for example a pandemic, which results in a cancellation being outside the control of the customer or the Council, the service may override the standard Terms and Conditions and offer a full refund.
 - c) This statement is applicable to all fees and charges for future booked events, with the exception of Adult Social Care."
- 3.7 For clarity, the Section 151 Officer considers that the current Covid-19 pandemic fits the criteria of Policy Statement 18 part b) above, and therefore services can vary Terms and Conditions in relation to refunds for events booked to take place on or before 31st March 2021, at which time this will be reviewed in light of government advice to see whether Covid-19 still meets this criteria.
- 3.8 The fees and charges policy will be reviewed in full later this year.

3.9 The addition of this policy statement to the fees and charges policy helps deliver the following strategic priorities:

- Target economic development to areas of opportunity
- Limit cost and drive growth in revenue

It should also encourage customers to purchase Council services, by giving them confidence of a refund should circumstances change.

4. Options

- 4.1. Option 1 (recommended) – Agree that Policy Statement 18 be added to the fees and charges policy. This is detailed above and gives specific reference to refunds.
- 4.2. Option 2 – Continue to follow accepted protocol that any change to Terms and Conditions in relation to refunds require the approval of the relevant functional Executive Director and Cabinet Member. This could result in numerous separate decisions on refunds.

5. Issues for consideration

5.1. Financial implications

- 5.1.1 The 2020/21 original budget for fees and charges is £131m, of which £38m is for services outside of Adult Social Care. As a result of recent decisions on fees and charges due to service closure in response to the Coronavirus pandemic, the latest budget for fees and charges is £123m, of which £35m is for services outside of Adult Social Care.
- 5.1.2 The financial implications are difficult to predict. At this stage it is unknown as to which fees and charges would require a refund. However, it is hoped that being able to offer a full refund under pandemic conditions will lead to recovery of income levels as customers will feel more confident to book Council services.
- 5.1.2 Any refunds given will need to be funded within existing service budgets.
- 5.1.3 Government announcements on income support will continue to be monitored, specifically the co-payment scheme that will compensate councils for irrecoverable income losses from sales, fees and charges.

5.2 Legal implications

- 5.2.1 The relationship between charges policy and the law is complex but if there was a conflict the law would prevail. We need to ensure that if the contract is 'frustrated' then a refund would have to be given. We also need to consider the impact of the Consumer Rights Act 2015 when refusing refunds as such terms need.

6. Equality and Diversity implications

- 6.1 The Public Sector Equality Duty applies to the Council when it makes decisions. The duty requires us to have regard to the need to:
- (a) Eliminate unlawful discrimination, harassment and victimisation and other behaviour prohibited by the Act. In summary, the Act makes discrimination etc. on the grounds of a protected characteristic unlawful
 - (b) Advance equality of opportunity between people who share a protected characteristic and those who do not.
 - (c) Foster good relations between people who share a protected characteristic and those who do not including tackling prejudice and promoting understanding.
- 6.2 The protected characteristics are age, disability, gender reassignment, pregnancy and maternity, marriage and civil partnership, race, religion or belief, gender, and sexual orientation. The Act states that 'marriage and civil partnership' is not a relevant protected characteristic for (b) or (c) although it is relevant for (a).
- 6.3 The equality impact assessment indicates that the proposals in this report will not have a disproportionately adverse impact on any people with a particular characteristic.

7. List of appendices

Equality Impact Assessment

8. List of Background papers

Fees and Charges Policy
Fees and Charges Protocol

I approve the above recommendations set out above for the reasons set out in the report.	Date 13 August 2020
Councillor Christopher Whitbread, Cabinet Member for Finance	

In consultation with:

Role	Date
Executive Director for Finance and Technology (S151 Officer)	02 August 2020
Stephanie Mitchener on behalf of Nicole Wood	

Director, Legal and Assurance (Monitoring Officer)	28 July 2020
Paul Turner	