



**Record of Cabinet Portfolio Holder  
Decision**

Local Government Act 2000 and the Local Authorities (Executive Arrangements) (Meetings and Access to Information) (England) Regulations 2012

<b>Decision made by</b>	Portfolio holder for Corporate Governance, Access and Engagement
<b>Key decision?</b>	Yes
<b>Date of decision (same as date form signed)</b>	21 January 2020
<b>Name and job title of Officer requesting the decision</b>	Adele Wylie – Director for Governance & Regulatory Services
<b>Officer contact details</b>	<a href="mailto:awylie@melton.gov.uk">awylie@melton.gov.uk</a>
<b>Decision</b>	<ol style="list-style-type: none"><li>1. Approval of the Legal Fees for 2020;</li><li>2. Authority for the Director of Governance and Regulatory Services to implement the new fee structure from 01 February 2020.</li></ol>
<b>Reason for Decision</b>	<p>A review of the charges legal services make for drafting agreements for property and contract related matters identified that the Council's charges are not reflective of either the work involved in some cases or are out of line with other councils. It is therefore desirable that these charges are implemented as soon as possible.</p> <p>As such delegated authority is required for these to be considered and determined. The fee set will consider the actual costs involved in undertaking such work as well as information on benchmarking from similar authorities.</p> <p>In line with the Council's strategic direction being to move to a more commercial approach charges for such services should be reflective of the market.</p>

<p><b>Alternative options rejected</b></p>	<ol style="list-style-type: none"> <li>1. Not to introduce fees to recover costs on legal matters which would result in the Council offering the service to domestic and commercial clients for free – this is not the recommended option</li> <li>2. To introduce higher fees – this is not the recommended option as the fees are based on cost recovery in line with legislation.</li> </ol>
<p><b>Legal implications</b></p>	<p>This is a key decision and as a result has been put on the forward plan and 28 days notice has been given.</p> <p>The Local Government Act 2003 (the 2003 Act) provides a general power to charge for discretionary services. It has a number of key features:</p> <ul style="list-style-type: none"> <li>• Authorities are under a duty to ensure that, taking one year with another, the income from charges do not exceed the costs of provision;</li> <li>• Authorities must already have the power to provide the service;</li> <li>• The recipient of the discretionary service must have agreed to its provision and to pay for it;</li> <li>• It does not apply to services which an authority is mandated or has a duty to provide at no extra cost;</li> <li>• Charges may be set differentially, so that different people are charged different amounts;</li> <li>• Authorities are not required to charge for discretionary services. They may provide them for free if they so decide</li> </ul> <p>To be able to make use of the power to charge for a discretionary service, authorities must have an existing power to provide that service.</p> <p>Under ordinary legal principles, an authority has</p>

	<p>power to do anything reasonably incidental to its express powers. In circumstances where an authority wishes to charge, for example for works or supplies, the authority will need to satisfy itself that the enactment which authorises provision of a particular service would also permit the provision of anything reasonably incidental to that service. Where an authority is relying on subsidiary powers under section 111(1) of the Local Government Act 1972 to authorise the provision of a service to facilitate the discharge of a specific function, then the authority may charge under section 93(1) of the 2003 Act for that function related service by virtue of the dis-application at section 93(7)(a) of the 2003 Act.</p>			
<b>Financial Implications</b>	The financial implications of the review of legal charges will be incorporated into the budget for 2020/21.			
<b>Other implications</b>	None			
<b>Background papers considered</b>				
<b>Declarations/conflict of interest?</b>	N/A			
<b>List consultees</b>		<b>Name</b>	<b>Outcome</b>	<b>Date</b>
	Ward Councillors			
	Legal	Kieran Stockley		
	Finance			
	Human Resources	N/A	N/A	N/A
	Equalities	N/A	N/A	N/A
	Communications			
<b>Confidential Decision?</b>	No			
<b>Call In Waived by Scrutiny Committee Chair?</b>	N/A			
<b>Has this been discussed by Cabinet Members?</b>	No			
<b>Cabinet Portfolio Holder</b>				

<b>Signature</b>	<b>REDACTED</b> ... Signature
	Date: 21 January 2020

**ONCE SIGNED, THIS FORM MUST BE HANDED TO DEMOCRATIC SERVICES IMMEDIATELY.**

FOR DEMOCRATIC SERVICES USE ONLY		
Form Received		
Date published to all Councillors		
Call In Deadline		

Service: LEGAL SERVICES

Main Code: 845

Budget Holder: Adele Wylie

What are the financial objectives of the charging policy. Please select.

- Commercial Charges  Free  Subsidised   
 Full Cost Recovery  Statutory

Which corporate/service objectives impact on the charging policy?  
 Becoming a more agile and commercial council; securing our financial future

What is the legal basis for making a charge?  
 Cost Recovery

Who are the users of the service?  
 Developers, Partner organisations

What is the current financial position of the service area?

	2019-20
Direct Costs 2019-20	£ 393,840
External Income:	13,000
Contribution to overheads/Council Funds	380,840
Recharges from other services	65,130
Recharges to other services	-292,220
Net subsidy/contribution to Council funds	153,750

Service Provided	Existing Fee/Charge	Effective Date of Last Increase	2018/19	Annual Usage	Concessions	Recommended Fee/Charge 2020/21	Additional Income 2020/21*
<b>PLANNING:</b>							
Standard S106	£750	01/04/2019	£0	0	none	£750	£0
Complex S106	£1,950	01/04/2019	£0	4	none	£2,000	£200
Complex S106 - Additional Hours	£1,950 for up to 13 hours + hourly rate	01/04/2019	£0	0	none	£2000 for up to 13 hours + fixed fee as agreed	£0
Deed of Variation	£600	01/04/2019	£0	4	none	£750	£600
Deed of Modification	£600	01/04/2019	£0	0	none	£750	£0
Stopping Up/Diversion Orders	£900	01/04/2019	£0	0	none	£900	£0
Stage 2 - Order	£450	01/04/2019	£0	0	none	£450	£0
Stage 3 - Where Opposed - Sec of State Final Stage - Confirmation	£450	01/04/2019	£0	0	none	£450	£0
Temporary Traffic Regulation Orders	£300	01/04/2019	£0	0	none	£300	£0
CONVEYANCING:							
Sale / Disposal of Land / Property	£500	01/04/2019	£0	2	none	£500	£0
Purchase / Acquisition of Land / Property	New Charge		£0	2	none	£450	£900
	New Charge		£0	2	none	£450	£900



Other Contractual Matters									
<b>OTHER FEES:</b>									
Proof of Life / Foreign Pension Verification		New Charge	£0	0	none	£450			£0
Certifying Documents		New Charge	£0	3	none	£35			£105
Copy Documents		New Charge	£0	0	none	£35			£0
		New Charge	£0	0	none	£35 each			£0

How will the proposal contribute to the achievement of corporate/service objectives? (Particularly any subsidy provided)  
 Securing the Council's financial future

What impact will the proposal have on the use of the services?  
 None

What is the reasoning for the recommended fee/charge structure? (include reference to any consultation, benchmarking etc.)  
 Cost recovery

Completed by: K Stockley

Director Sign Off: \_\_\_\_\_ Date: 11.09.19

Portfolio Holder Sign Off: \_\_\_\_\_ Date: \_\_\_\_\_

Delegated Decision Record Updated By: \_\_\_\_\_ Date: 21.01.20

\_\_\_\_\_ Date: \_\_\_\_\_

REDACTED