



Lancashire County Council

Application of Fees and Charges Policy (DRAFT)

Background

1. Spending public money wisely is a core operating principle of local government and it is a corporate objective to prevent waste and use money wisely. This requires effective management of cost. Likewise, the revenue generated from the application of fees and charges is a significant enabler to the delivery of services and in setting a balanced budget.
2. Within the council's commercial blueprint, approved by Cabinet, in August 2020, it is explicit that the effective management of cost is a core priority, and that any commercial activity must serve to promote, and have wider benefit, to the economic, health and social, educational, and environmental well-being of our communities and not solely be for commercial purpose i.e., for profit alone. Thus, being clear on the 'Why are we doing this', supporting clarity of purpose.
3. Fees and charges represent an important source of income, providing finance to assist in achieving council objectives. The purpose of this policy document is to establish a framework within which fees and charges levied by the council are agreed and regularly reviewed against.
4. This policy provides guidance to managers in setting appropriate levels of fees and charges, considering client groups and corporate objectives, and to provide for regular reviews of fees and charges within the overall service and financial planning process.
5. Incorporating the review of fees and charges formally into the service and planning process will also permit consideration of cross-cutting issues and impacts in the context of wider policy considerations.
6. Services should seek to maximise income wherever there is a possibility to do so unless the introduction of a charge is legislatively prohibited or would be contra to specific corporate priorities and service objectives.
7. Fees should be set to ensure that income raised covers the full cost of that services provision, including all expenditure incurred directly and indirectly.
8. This policy is focussed on the power to charge, in statute and for discretionary services as it is in this area that the council has scope for constructing its own charges, informed by its own costs. The guidance is intended to establish a consistency of approach across the council, ensuring the council maximises its income and opportunities are not missed.

National Policy Context

9. Delivering value for money: Keeping pace with expectations is a significant challenge when central funding is reducing. Exploring new and more efficient ways of working through collaboration between public bodies may be one approach. Generating additional income is another choice available to councils and other public sector partners. That is why it is important to consider all the options for trading and charging.



10. Surpluses generated through trading activities can be used to help hold down council tax and/or can be directed into frontline services. Income generated from charging for the costs of supplying discretionary services can also help the council's financial position.
11. The Localism Act 2011, General Power of Competence (GPOC), explicitly gives councils the power to do anything that an individual can do which is not expressly prohibited by other legislation.
12. Local Government Act 2003 (2003 Act) covers general powers to provide and charge for discretionary services [s93, s95].
13. Section 1 of the Local Authorities (Goods and Services) Act 1970 (1970 Act) enables local authorities to provide and charge for services to any other "public body", including local authorities.
14. Councils need to be aware of the powers under which they operate and if required seek clarification and support from legal services.

Lancashire County Council Policy Context

15. Lancashire County Council is a large and complex organisation, the powers to operate can be different from one service to another.
16. A 2021 survey of over 60 of our commercial champions asked what aspects best describe their commercial needs/areas of challenge. The top response was greater support in strategy and policy. This policy, therefore, is to support in that regard.
17. Services that the authority is mandated or has a duty to provide are not discretionary services and will not benefit from the power to charge at section 93 of the 2003 Act. 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, and therefore chargeable.
18. Adopting commercial practice in the effective management of cost is as relevant to statutory services as it is in a discretionary traded commercial context.

Fees and Charges permissible under statute

19. In those areas of the council where the application of fees and charges are governed by a specific grant, national policy directive or in regulation the service must have due regard to its operating parameters when determining or reviewing its approach.
20. In this setting the focus from the service is on fully understanding costs and effective cost management.

Fees and charges for delivery of non-statutory, discretionary services

21. The intended recipient and the overall purpose of services will influence the model to be adopted. It is imperative that services maintain a clarity of purpose and do not drift unintentionally away from that purpose. Any strategic change must be undertaken in full awareness of the consequences. Appropriate approvals must be sought.



E.g., In a commercial setting, a tactic to engage a different customer base may have significant implications on the legal basis in which the service operates. Please note Appendix 3. Legal context.

The application of fees and charges

22. Primary responsibility sits with Heads of Service and service managers to take appropriate action to fees and charges levied for services.
23. Within the service and financial planning process, each fee or charge should be aligned to one of the categories in the table below and the appropriate practice adopted in establishing and reviewing rates and levels.
24. This approach will assist service areas in maintaining a clarity of purpose and avoid conflicting activities.
25. This should inform the budget planning process and in-year adjustments may be subject to approvals by Corporate Management Team/ Director of Finance.
26. Income derived from charging will be used to offset costs of providing the service being charged for, including all support service costs. Where an allowable surplus is generated this will contribute to the wider corporate budget and the council's priority is to support and off-set costs in areas of rising demand and or to improve the continuation and quality of discretionary services to the benefit of our communities.
27. The consideration of re-investment of such surpluses in wider service development must be considered as part of the council's commercial business planning methodology and or Director of Finance. Each proposal will be considered on its own merits at that time and within the general service and financial planning framework.

Fees and Charges operating policy model:

28.

Operating Model	Objective	Characteristic
Free	Council policy is to make this service free i.e., access to education, social care	Effective cost management (App 2)
Nominal	Council intends the service to be fully available but sets a charge to discourage certain behaviours	Cost management [app2] - Surge pricing techniques may be utilised at set periods.
Statutory	Charges are set in line with legal obligations. A fee set by statute and over which the council has no control	Effective cost management - Review 1-3yr
Subsidised	A fee that covers none or partial cost of the service provision on the basis that it delivers a strategic outcome and/or supports a corporate, social priority. This model is used where the provision of the service has a wider health, economic, community, partner, or educational benefit.	Effective cost management - Has the cost of subsidy been evaluated? - What has been the impact on demand? - Annual reviews



Market /Community Orientated	A fee that aims to recover all direct costs and a proportion of corporate overheads. The council seeks to maximise income but is subject to a defined policy and or wishes to incentivise a specific outcome, the market or make available the service to a community group. This model is used where the provision of the service has a wider health, economic, community, partner, or educational benefit.	Commercial practice – Volume, Cost, Price variables. Annual review
Full Cost Recovery	Provides wider benefits and the council wishes to make the service available but does not wish to allocate its own resources. A fee that recovers the full cost of service provision including a contribution to corporate overheads.	Commercial practice Volume, cost, price variables Annual review
Full Cost Recovery +	As above and a fee that recovers the full cost of service provision, including full contribution to corporate overheads and provides a contribution to corporate budgets.	Commercial practice Volume, Cost, Price variables Annual review

Please refer to the Charging Process flowchart in Appendix 1 and Appendix 2 for further detail on Effective Cost Management.

29. It is acknowledged that there is a level of complexity across the council, in directorates, and in-service areas. Some discretionary services will have a clarity over the operating policy model to be applied, particularly when all its activity is discretionary. In service areas, where the activity is an enhancement of a statutory function the application of the operating policy should be at the activity/fee level line, not service or team level and be a factor in the overall budget planning process.

Performance and Exit

30. Service reviews should be undertaken at least annually for all discretionary services and inform business planning. Financial monitoring must feature in such reviews as with wider market variables.

31. Discretionary service areas with an operating policy model of Subsidised, Market Orientated, Full Cost Recovery, Full Cost + showing a deficit position must be reviewed against its operating model in the following situations:

- A falling three-year financial trajectory and non-achievement against budget
- Non - achievement of direct costs at year end. I.e., Expenditure is greater than income.

❖ **This review may indicate and propose a recovery plan, an alternative policy operating model, alternative service delivery model or a possible discontinuation of the service and exit arrangements.**

❖ It is acknowledged that the budget can contain a number of elements, therefore the review will also need to understand performance against:

- Performance against budget



- Performance against direct costs (income over expenditure)
- Performance against contribution to overheads
- Performance against contribution to wider corporate budget, where relevant.
- Performance against intended benefit realisation (intended outcomes & benefits to customers)

This approach will support an early identification of issues and a holistic review of financial and wider benefit variables to the council/customers to be considered in parallel.

Please note App 4.

- 32.** The council will undertake an annual exercise to identify those areas that meet the above triggers initiating a review with the portfolio Director, Head of Commercial and Finance.

Strategic change of an operating model

- 33.** Services considering deviating from their operating policy model must consider the consequences in full, in terms of impact on the customer, market, people, quality and financial implications on the budget and legal basis.

Any strategic change must be undertaken in full awareness of the consequences having sought the appropriate approvals. The strategic change of a whole service operating model will need to be considered by Corporate Management Team.

Considerations to note:

- 34. Rate of Inflation:** Where charges are felt to be appropriate to the current market and existing competition, it is recommended that an increase equivalent to the rate of inflation (relevant index) is added. The appropriate figure to use for inflation will be provided as part of the budget setting process.
- 35. Market pressure:** It is understood that fees will not always increase from one year to the next, as market pressures/competition may influence the need to hold/reduce fees.
- 36. Benchmarking:** Where possible, the application of fees and charges should be compared to those in the public and private sector and consideration to what the market can afford.
- 37. Legal implications:** The timing of change to fees and charges should permit notice and consultation periods as required by applicable regulations and/or existing agreements. Services are asked to consider and identify any barriers to delivery, delays to implementation that will occur as a result of required consultation periods. Consultation with residents and identified stakeholders should be undertaken in accordance with legislative requirements and normal custom and practice of the service area. Contracts/SLAs should factor in financial risk to the council and take a commercial approach to SLA early termination clauses, i.e., where no fault lies with the service do, they levy a cancellation fee that covers financial costs associated to the early termination (staffing and redundancy, on-going system or supply costs). If unsure, services should seek legal advice.



38. Central Establishment / Support Service Costs: In calculating cost of service provision, services are required to consider the apportionment of the support service costs as part of the revised fee structure (price). Services must seek clarification and guidance in this respect from the council's finance team. Resources are limited and services should work in a structured, planned manner to afford adequate time to complete the exercise effectively.

Reviewing Fees and Charges.

39. Each service should maintain a schedule of fees and charges levied. This schedule should include, but identify separately, those charges where there are national / external procedures or other specific procedures for determining and reviewing rates of charge.

Appendix 5 provides minimum content.

40. This will facilitate the proper consideration and approval of fees and charges, and subsequent changes, through the service and financial planning cycle and budget setting process.

Collection of Fees and Charges

41. The council's default position will be to collect income via advanced payment and through automated, online channels where possible. This reduces the cost-of-service provision, removes financial risks associated with aged debt and costs of recovery, whilst also demonstrating that the customer consents to the service and its cost.

The need for transparency:

42. The council should seek to be transparent in its use of fees and charges. It is good practice to set out clear charging schedules so that customers are aware of what services they need to pay for and how much they will cost. Be this a one-off transactional purchase or longer-term agreement.

Appendix 5 provides minimum content

Internal Arrangements:

43. It is not unusual in discretionary service areas to provide services to other internal discretionary services, and this should, as far as it is available and practicable, be considered an internal procurement directive.

44. In these situations, the receiving service should be treated as the customer, and there must be clarity in what is being provided as in para 42.

45. Financial agreements should be based on full cost recovery.

46. Service areas should focus on the outcomes the service intends to achieve and should not be consumed with complex internal arrangements between services. Therefore, service managers, by agreement, should have some discretion in what internal activities must be charged for or absorbed supporting mutual benefit, as long as there is no significant impact on the budget.

47. In the event of disputes, poor quality provision of services, service areas must operate in the spirit of 'one council' and there should be agreed opportunities for the supplying service to remedy issues prior to the consideration of procuring the services outside of the council.



48. Most services will be required to have a schedule of fees and charges approved by cabinet and should work towards this as an annual exercise, further support on this can be accessed by Head of Finance, Head of Commercial.

This section does not cover services from corporate functions as this is considered as part of the CDS (corporate departmental surcharges).

49. Adopting this policy into practice will support officers to effectively manage cost and maximise eligible income into the council.

50. For queries and further support please contact the Head of Commercial.

51. Appendices supporting this policy:

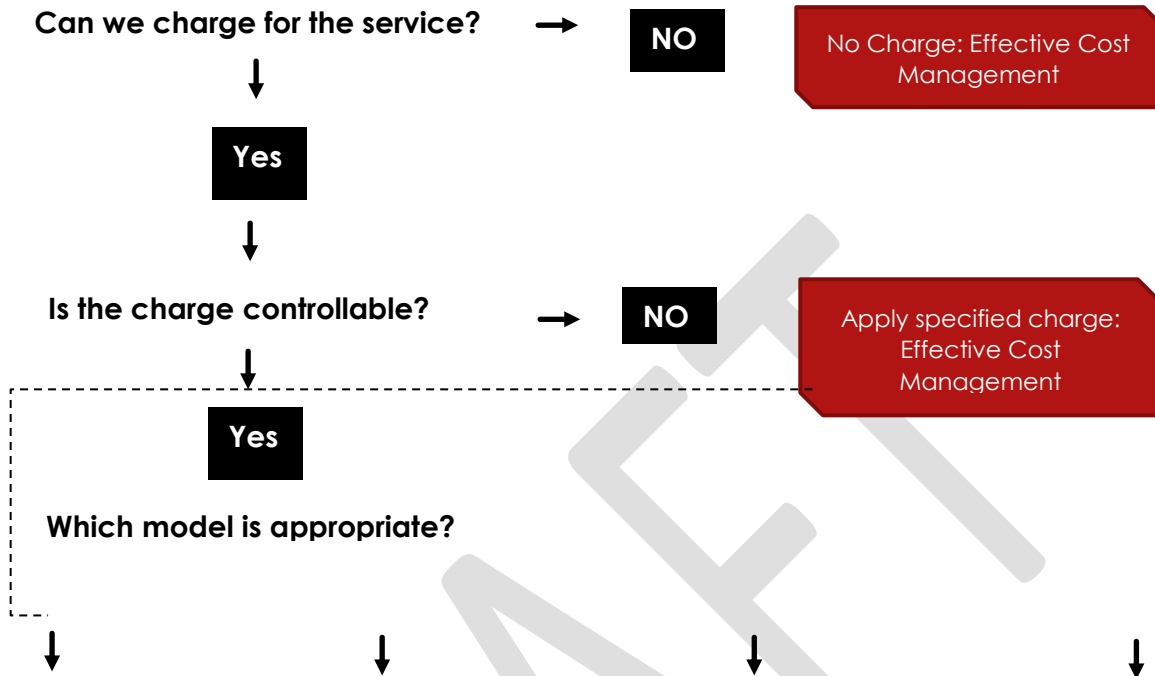
Appendix:

1. Charging process flowchart
2. Characteristics of effective cost management
3. Legal context
4. Checklist for officers
5. Reviewing fees and charges, Need for transparency
6. Delivering Efficiency: Understanding the Cost of Local Government Services



Appendix 1:

Charging Process:



Statutory:	Subsidised rate:	Market/community orientated benefit:	Full Cost Recovery:
<p>Charges are set in line with legal obligations. A fee set by statute and over which the council has no control:</p> <p>In this situation the focus needs to be on identifying cost of service provision & deploying effective cost management</p> <p>Demand v Need</p>	<p>A fee that covers none or partial cost of the service provision on the basis that it delivers a strategic outcome and/or supports a corporate priority:</p> <p>This decision must be made at CMT level justifying the contribution from revenue makes to the council's strategic priorities.</p>	<p>A fee that aims to recover all direct costs and a proportion of corporate overheads.</p> <p>The council seeks to maximise income but is subject to a defined policy and or wishes to incentivise a specific outcome, the market or community group.</p> <p>This model is used where the provision of the service has a wider health, economic, community, partner, or educational benefit.</p>	<p>Provides wider benefits and the council wishes to make the service available but does not wish to allocate its own resources.</p> <p>A fee that recovers the full cost of service provision including full contribution to corporate overheads.</p> <p>Full Cost Recovery +</p> <p>A fee that recovers the full cost of service provision, including full contribution to corporate overheads and a contribution to corporate budgets.</p>

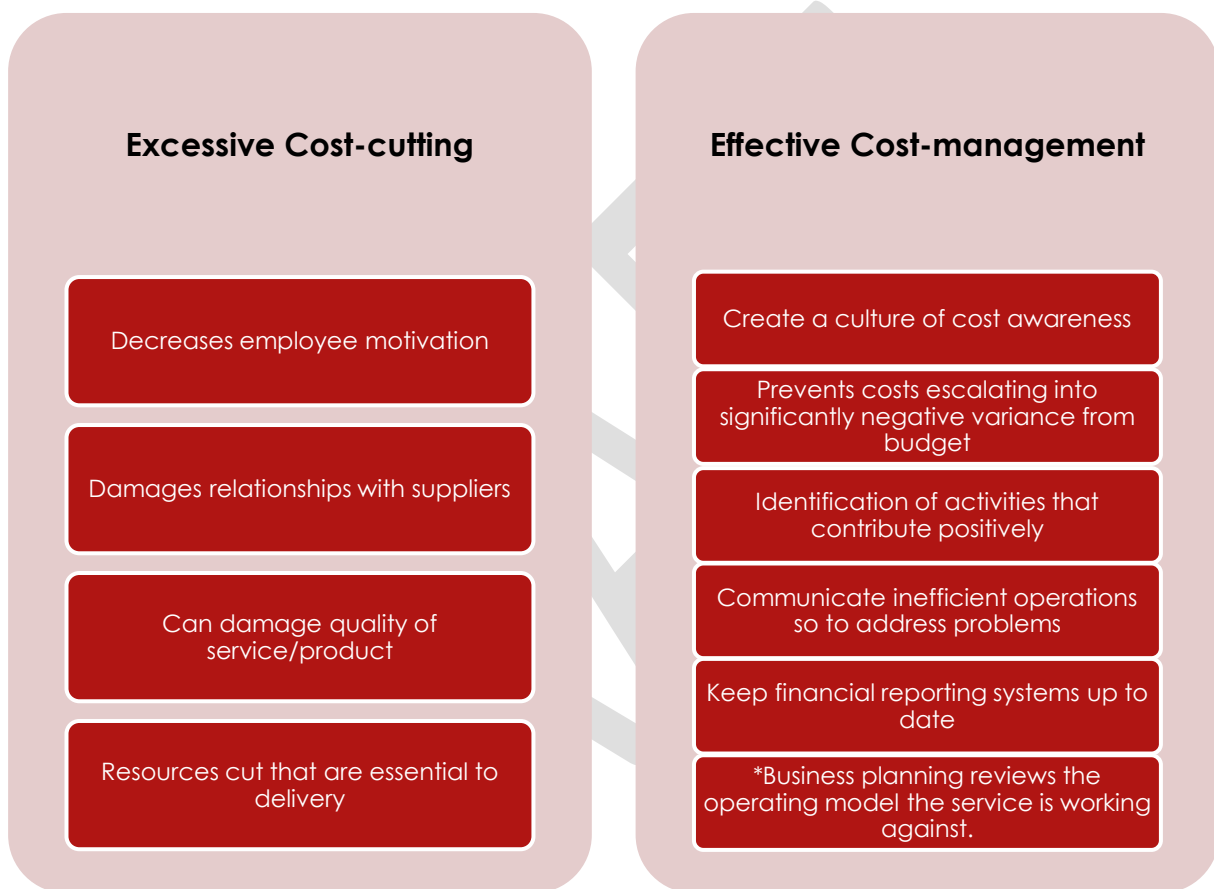


Appendix 2:

Effective Cost Management:

Cost effectiveness:

- A central challenge for management is to extract maximum value from resources whilst keeping costs under control.
- Effective cost control recognises the negative impact that a singular focus on cutting costs could have on employee motivation, relationships with suppliers, and ultimately product quality.



The characteristics highlighted are aspects that will be covered as part of the council's financial monitoring processes. See appendix 4 and also Supporting Info for App 6, Understanding the Cost of Local Government Services.

- ❖ Discretionary service areas showing a deficit position or falling financial trajectory must be reviewed against its operating model.
- ❖ This review may indicate and propose an alternative service delivery model or a possible discontinuation of the service.



Appendix 3:

Legal context:



Legislation and guidelines for the application of fees and charges should be kept under constant review to protect the council from challenge. Central Government may introduce changes from time to time to ensure that statutory charges remain appropriate for the environment in which local authorities operate and services should have measures in place to ensure they remain appraised of these.

Legislation governs how the council can apply charges, with councils permitted discretion to set charges in many areas. Legislation prohibits charging altogether in certain areas of children's education. In other areas, legislation sets out broad principles for charging, but its application varies markedly between local authorities' dependant on what purpose is to be achieved (cost recovery v profit).

In addition to specific statutory powers, the three pieces of legislation pertinent to local authority charging are:

- ❖ The Local Authorities (Goods and Services) Act 1970 (the '1970 Act') gives local authorities the power to enter into agreements with each other and with a long list of other designated public bodies for the trading/charging of services. These are often referred to as 'shared services' or public-public partnerships.

The term 'public body' is defined as a person or persons appearing to the Secretary of State to be exercising functions of a public nature. For example, The Environment Agency, education providers, hospitals / NHS trusts and Social Housing providers etc.

The 1970 Act allows public bodies to use an 'agreement' to set out payment terms as considered appropriate between parties. This offers flexibility and more crucially, does not limit arrangements to cost recovery – public bodies may trade for profit in these circumstances.

- ❖ Section 93 of the Local Government Act 2003 (the '2003 Act') introduced a free-standing power to charge for the provision of any discretionary service. A local authority cannot use its section 93 to levy a charge for the provision of the service where a charging power already exists or where it is prohibited from making such a charge by legislation. This power remains in force.
- ❖ Section 1 of the Localism Act 2011 (the '2011 Act') introduced a new General Power of Competence (GPOC), which gave local authorities the power to do anything that individuals may generally do, including the power to do it for a commercial purpose or otherwise for a charge, or without a charge, provided that the act in question is not expressly prohibited by legislation in force or which comes into force at a later date.

Section 3 of the 2011 Act sets out the limits on charging in exercise of the GPOC which includes: (1) the service is not one the authority is required to provide under a statutory provision; (2) the person has agreed to its provision; (3) ignoring this section 3 and section 93 of the 2003 Act, the authority does not have the power to charge for the provision of the service and (4) the general power is subject to a duty to ensure that income does not exceed cost recovery taking one financial year with another.



The GPOC does not enable local authorities to set charges for mandatory services, impose fines or create offences or byelaws affecting the rights of others, over and above existing powers to do so and remains subject to public law controls and other statutory restraints such as the Equality Act 2010. By giving local authorities the flexibility to act in their own financial interests, the GPOC permits them to be enterprising through increased trading and charging activity.

Considerations:

If there are powers to trade with other public bodies, for example under the Goods and Services Act, Is it more appropriate to use that power rather than set up a commercial trading company under the 2003 Act? Where the council has other powers and the motives are, for example, **regeneration and community benefit**, there is no obligation to set up a commercial trading company even if it is likely that such activities will generate a financial return. The council needs to be clear what the purposes are of its charging or trading activities and then needs to find the relevant power and exercise that power properly.



Appendix 4: Checklist for Officers

Staying in control of charging - A charging checklist for officers			
Corporate review	Establish Principles	Join up objectives with charging	Set Targets for Charges
	Do you have a clear understanding of corporate/service charging principles?	Are the links made between the power of charging and the Council's strategic and service objectives? Have we established where we can make the best use of charging to deliver corporate & service objectives?	Are objectives translated into targets for charges that paint a clear picture of 'success'? Are any conflicts with objectives identified, can these be resolved?
Best Value Review	Make Charging Decision	Design Charges	Monitor & Evaluate
	Is the performance of charges against targets evaluated?	Is there sufficient time, information and direction to complete task?	Does the expected impact fit with service and corporate objectives?
	Is best use made of existing service user and transaction information?	Is differential pricing used to target groups?	Are measures in place to assess the impact of charges?
	Is there sufficient understanding of service users and their needs?		Is there an established performance review timetable and reporting process?
	Is there sufficient understanding of target groups?	Is there adequate understanding of likely user reaction to charges and are Members aware of this?	Are the target groups clear?
Is benchmarking comprehensive / is there a complete picture of competition?	Are clear performance targets set and communicated?		
		Do reviews cover all charges?	



Appendix 5:

Reviewing Fees and Charges [para 39]

Each service should maintain a schedule of fees and charges levied. This schedule should include, but identify separately, those charges where there are national / external procedures or other specific procedures for determining and reviewing rates of charge.

This will facilitate the proper consideration and approval of fees and charges, and subsequent changes, through the service and financial planning cycle and budget setting process.

In all cases, however, the schedule should indicate as a minimum:

- The nature of the service or supply being charged for.
- By whom are charges determined.
- The legal basis of charge.
- Current rates of charge.
- Estimated revenue in current year, and on review within the service and financial planning process,
- Proposed increase.
- Percentage increase.
 - Proposed rate of charge.
 - Effective date for increase.
 - Estimated revenue in full year.
- Wider considerations covered in paras 34-38. Inflation, Market pressures, Benchmarking, legal, CDS overhead.

App 6 will be helpful in understanding different approaches to determining cost in detail.

The need for transparency: [para 42]

Where **service level agreements/contracts** are in place these should also reflect this transparency and as a minimum include:

- The parties
- Service description
- Agreement period
- Service Level Agreement options and how they differentiate from one another (customer perspective)
- Pricing showing fees and charges against options (in multi-level SLAs) within the provision of services.
- Price review and variation clauses i.e. Early Termination process/fee.
- Liability provisions
- Obligations, responsibilities
- Review periods, if required
- Customer satisfaction method
- Data protection provisions



- Confidentiality
- Termination and termination effect clauses
- Dispute resolution and complaints policy.
- Operational procedures, where required and/or Customer Charter
- An operational contact.

Legal services should be consulted in the drafting of commercial SLAs/contracts.

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