



Cyngor Castell-nedd Port Talbot
Neath Port Talbot Council

NEATH PORT TALBOT COUNTY BOROUGH COUNCIL

Cabinet

2 October 2019

Report of the Head of Legal Services

Matter for Decision

Wards Affected:

All Wards

Report Title

1. Introduction of chargeable fees for legal work in respect of applications for Road Traffic Orders

Purpose of the Report:

2. To obtain the approval of Members for the introduction and recovery of chargeable fees attributable to work undertaken by the legal services section in the preparation of Road Traffic Orders on behalf of external bodies.

Executive Summary:

3. This report is intended to explain the work currently undertaken by the Legal Services Section in the preparation of Road Traffic Orders and related notices, the nature of those Orders, and capacity for charging for that work, and recovering income for the Council.

Background:

4. Members will be aware that this Council has the power to make, amongst other things, Road Traffic Orders on behalf of external bodies. A Road Traffic Order is an Order which a local authority is empowered to make pursuant to statutory power. Such an order would operate either to prevent something happening along a highway or to facilitate an event or activity to take place. Examples of these might be; a Temporary Road Traffic Order to enable road works to be carried out, a Permanent Road Traffic Order to enable yellow lines to be placed on a road, a Special Events Order to enable the Remembrance Day Parade to take place or a Notice to enable speed humps/cushions to be placed on the road.
5. The making of these Orders is governed by a variety of legislation, and that legislation prescribes the procedure for making those Orders.
6. Amongst other things, Legal Services reviews the proposed orders to ensure they accord with the law, prepare notices in respect of them, lodge advertisements where appropriate, and draft the requisite order. This work can be quite time consuming and is often required as a matter of urgency.
7. Until the present time, Legal Services has not levied a charge for the work it undertakes in the preparation of these Orders, although the instructing department, namely Engineering and Transport and Streetcare (Environment Directorate) have charged for their work and have been doing so for some considerable time. In addition, the instructing department collect the charges from the third parties prior to instructing Legal Services

8. Neighbouring authorities have for a number of years been charging the costs incurred by their Legal Section in drafting the appropriate orders.

What are the Orders contemplated by this report?

9. There are **5** types of Order which would be suitable for levying charges. These are Permanent Orders, Temporary Orders, Special Events Orders, Emergency Orders and Footpath Orders.
10. Certain steps are prescribed by legislation and statutory instrument to be taken by the Council, and the Legal Section undertake these. Taking as an example Permanent Orders, the steps required are as follows; advertising the notice of intention to make the Order, placing on deposit the notice, plans, draft Order and Statement of Reason, notifying affected parties and placing the proposals on site. If no objections are received, then the Order would be sealed, and copies sent to relevant bodies.
11. The external bodies on whose behalf these orders and procedures are undertaken consist of Welsh Water, BT/Openreach, Centurion Site Services, Network Rail, Amberon, Wales and West Utilities amongst others.

Proposal

12. Currently the Environment Directorate charge their own fees in respect of road traffic orders.
13. It should be noted that these fees will only be charged where the Council undertakes work on the part of external bodies and not for internal clients.

14. It is proposed that Members approve the introduction and levying of the fees shown in Appendix 1 to this report to the external bodies named above with effect from 1st January 2020.

Financial Impacts:

15. As the work is presently undertaken without payment, no further demands would be placed upon existing resources.
16. If the proposed charging rate had been applied on the basis of the 2018/2019 work undertaken, the approximate income that would have been received was around £15,000. The Council is of course dependant on the number of orders it is asked to undertake.

Integrated Impact Assessment:

17. A first stage impact assessment has been undertaken to assist the Council in discharging its legislative duties (under the Equality Act 2010, the Welsh Language Standards (No.1) Regulations 2015, the Well-being of Future Generations (Wales) Act 2015 and the Environment (Wales) Act 2016.
18. The first stage assessment has indicated that a more in-depth assessment is not required, for the reasons identified in Appendix 2.

Valleys Communities Impacts:

19. No Implications

Workforce Impacts:

20. No implications. At present the work will be undertaken regardless of whether or not these proposed charges would be applied.

Legal Impacts:

21. No implications. The Council is permitted to charge for work undertaken in respect of these orders.

Risk Management Impacts:

22. As indicated previously, the proposal is simply building upon work currently undertaken by the legal services section. Whilst it may be possible that the introduction of fees could lead to a decrease in incoming instructions this is not anticipated. Many, if not all of the activities regulated by the proposed Orders are necessary to the external bodies to carry out their functions and roles. Whilst there is potential for risk therefore, it is considered to be either low level or negligible to extent that the proposal is quite sustainable and any risk quite manageable

Consultation:

23. There is no requirement for external consultation on this item. Discussions have been had with internal officers who undertake this area of the work for the Council and they are supportive of the changes being implemented.

Recommendations:

24. It is recommended that Members to approve the introduction and recovery of chargeable fees attributable to work undertaken by the legal services section in the preparation of Road Traffic

Orders on behalf of external bodies as outlined in Appendix 1 of this report to commence from September 2019

Reasons for Proposed Decision:

25. To enable the legal services section to recover its costs in respect of work undertaken on behalf of external bodies in the production of Road Traffic Orders for or on behalf of those organisations

Implementation of Decision:

26. The decision is proposed for implementation after the three day call in period.

Appendices:

Appendix 1 – Proposed Legal Services Charging Structure

Appendix 2 - Integrated Impact Screening Assessment

List of Background Papers:

27. None

Officer Contact:

Craig Griffiths
Head of Legal Services
Email: c.griffiths2@npt.gov.uk
Tel: 01639 763767

Mike Shaw
Principal Solicitor – Litigation
Email: m.shaw@npt.gov.uk
Tel: 01639 763260

Appendix 1

Type of Order	Cost by Environment Directorate	Proposed Cost for Legal Services
Footpath Orders	£258	£200
Emergency Orders	£616	£100
Special Events Orders	-	-
Temporary Orders	£616	£250
Permanent Order (Notice A)	Variable	£300
Permanent Order (Order)	Variable	£300
Permanent Order (Notice B)	Variable	£300

Impact Assessment - First Stage

1. Details of the initiative

Initiative description and summary:

Description:

The proposed introduction of chargeable fees for legal work in respect of applications for Road Traffic Orders

Summary

To seek the approval of Cabinet (Finance Sub Committee) for the introduction and recovery of chargeable fees attributable to work undertaken by the legal services section in the preparation of Road Traffic Orders and notices on behalf of external bodies

Service Area: Legal Services

Directorate: Finance and Corporate Services

2. Does the initiative affect:

	Yes	No
Service users		x

Staff		x
Wider community	x	
Internal administrative process only	x	

3. Does the initiative impact on people because of their:

	Yes	No	None/ Negligible	Don't Know	Impact H/M/L	Reasons for your decision (including evidence)/How might it impact?
Age		x				The proposal relates to the payment of legal fees for the purposes of road traffic orders and has no impact on any protected characteristic.
Disability		x				The proposal relates to the payment of legal fees for the purposes of road traffic orders and has no impact on any protected characteristic.
Gender Reassignment		x				The proposal relates to the payment of legal fees for the purposes of road traffic orders and has no impact on any protected characteristic.
Marriage/Civil Partnership		x				The proposal relates to the payment of legal fees for the purposes of road traffic orders and has no impact on any protected characteristic.
Pregnancy/Maternity		x				The proposal relates to the payment of legal fees for the purposes of road traffic orders and has no impact on any protected characteristic.
Race		x				The proposal relates to the payment of legal fees for the purposes of road traffic orders and has no impact on any protected characteristic.

Religion/Belief		x				The proposal relates to the payment of legal fees for the purposes of road traffic orders and has no impact on any protected characteristic.
Sex		x				The proposal relates to the payment of legal fees for the purposes of road traffic orders and has no impact on any protected characteristic.
Sexual orientation		x				The proposal relates to the payment of legal fees for the purposes of road traffic orders and has no impact on any protected characteristic.

4. Does the initiative impact on:

	Yes	No	None/ Negligible	Don't know	Impact H/M/L	Reasons for your decision (including evidence used) / How might it impact?
People's opportunities to use the Welsh language		x				<u>The proposal does not affect the ability for using the Welsh Language as it relates to payment for legal costs alone.</u>
Treating the Welsh language no less favourably than English		x				<u>The proposal does not affect the ability for using the Welsh Language as it relates to payment for legal costs alone.</u>

5. Does the initiative impact on biodiversity:

	Ye s	N o	None/ Negligibl e	Don' t kno w	Impa ct H/M/L	Reasons for your decision (including evidence) / How might it impact?
To maintain and enhance biodiversity		x				The proposal does not affect the maintenance of enhancement of biodiversity as it relates to the payment of legal costs alone
To promote the resilience of ecosystems, i.e. supporting protection of the wider environment, such as air quality, flood alleviation, etc.		x				There is no impact on the ability to promote the resilience of ecosystems.

6. Does the initiative embrace the sustainable development principle (5 ways of working):


	Yes	No	Details
Long term - how the initiative supports the long term well-being of people	x		The initiative supports the long term wellbeing of people by ensuring that road traffic orders are correctly introduced and implemented and that resources are appropriately used in the provision of legal services to the Council and therefore the wider

			community.
Integration - how the initiative impacts upon our wellbeing objectives	x		This initiative will further allow the focussing of existing human and financial resources upon the 3 wellbeing objectives by ensuring cost recovery for the work undertaken.
Involvement - how people have been involved in developing the initiative	x		The initiative builds upon the consultation and charges already undertaken by the Environment directorate. This authority has liaised with other neighbouring authorities in preparing and coming forward with this initiative (who presently adopt such charges) and had discussions with Council service areas on this initiative to which the response has been one of support.
Collaboration - how we have worked with other services/organisations to find shared sustainable solutions	x		This authority has liaised with other neighbouring authorities in preparing and coming forward with this initiative (who presently adopt such charges) and had discussions with Council service areas on this initiative to which the response has been one of support.
Prevention - how the initiative will prevent problems occurring or getting worse	x		This initiative will further allow the focussing of existing human and financial resources upon the 3 wellbeing objectives by ensuring cost recovery for the work undertaken.

7. Declaration - based on above assessment (tick as appropriate):

A full impact assessment (second stage) is not required	<input checked="" type="checkbox"/>
Reasons for this conclusion	
Based upon the above assessment a second stage impact assessment is not required as the initiative does not negatively impact any protected characteristics, or the Welsh language, or biodiversity, and embraces the sustainable development principle	

A full impact assessment (second stage) is required	<input type="checkbox"/>
Reasons for this conclusion	

	Name	Position	Signature	Date
Completed by	Mike Shaw	Principal Solicitor Litigation	Mike Shaw	13 th September 2019
Signed off by	Craig Griffiths	Head of Service		13 th September 2019