



**Executive
18 October 2010**

**Report from the Director of
Housing and Community Care**

For Action

Wards Affected:
ALL

Furniture Charging Policy for Homeless Households

Appendix B is not for publication as it contains the following category of exempt information as specified in paragraph 5 of Schedule 12A of the Local Government Act 1972, namely:

Information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.

1.0 Summary

- 1.1 This report seeks Members' agreement to amendments to the existing policy for charging homeless households in relation to the removal, storage and delivery of their belongings.

2.0 Recommendations

- 2.1 That Members approve the proposed changes to the schedule of charges for the removal, delivery and storage of homeless households' belongings as outlined in paragraph 3.20 and to the exemptions policy as outlined in paragraph 3.25 of this report.
- 2.2 That Members approve that the schedule of charges and the exemptions policy as set out in paragraphs 3.20 and 3.25 of this report be implemented with effect from 29th November 2010 for all new requests for assistance and for existing goods in storage.

3.0 Detail

- 3.1 Background

Members will be aware that the Council has a legal obligation under the homelessness legislation to ensure the safe-keeping of homeless households' goods. This requirement applies where the Council owes one of the statutory duties toward the homeless household as set out in paragraph 5.3 below under Part VII of the Housing Act 1996.

- 3.2 Under the legislation, the Council has a legal obligation to take reasonable steps to prevent the loss of, or to prevent or mitigate the damage to, the personal property of homeless persons where the Council has reason to believe that there is a danger of loss or damage to those goods because of the homeless persons' inability to protect or deal with them, and in the absence of other suitable arrangements being made. The Council is also allowed to make reasonable charges to homeless applicants for removals and storage of personal property.
- 3.3 Most temporary accommodation provided by the Council is furnished and households can often remain in this type of accommodation for many years – waits of five to six years are common and larger sized families can wait for far longer, due to the shortage of larger properties. This means that the Council may need to store belongings for lengthy periods.
- 3.4 Prior to 2006, the Council's duty and powers (in relation to storing homeless households' belongings) were interpreted in a generous way, both in terms of the availability of the service to homeless applicants and by the fact that the service was provided broadly free of charge, with limited charges made for part delivery of items out of storage, and when a customer failed to attend an appointment with the contractor.
- 3.5 Executive Meeting – January 2006
The Executive meeting held on 16th January 2006 considered proposals to change the policy on the provision of furniture storage for homeless households. The meeting agreed that where customers were unable to make their own arrangements for storage of their belongings, (for example with a friend or relative), the following schedule of charges would apply -

Charges	Removals / Delivery	Monthly Storage
Working Customers	Full Cost up to a maximum of £120	£15 per container up to a maximum of £30
Non-working Customers	£50	£10

- 3.6 The report which was presented to this meeting also noted that officers would ask customers to take account of the storage period whilst they were in furnished temporary accommodation, and to consider whether it would make financial sense to make alternative arrangements or sell or otherwise dispose of their goods.

3.7 The report explained that the policy would apply to new requests only, and would not be applied retrospectively to households whose belongings were already in store.

3.8 The Executive meeting approved the recommendations and they were implemented with effect from 10th July 2006.

3.9 Executive Meeting – October 2007

In October 2007 the Executive considered further recommendations in relation to furniture charging, as part of a wider report from the Director of Finance and Corporate Resources regarding the Council's budget position and proposed savings. It was proposed that the monthly charge to customers for storage be increased to approximately 90% of the cost that the Council was then paying.

3.10 The new schedule of proposed charges (to be applied to new requests for assistance) was as follows –

Charges	Removals / Delivery	Monthly Storage
Working Customers	No change (Full Cost up to a maximum of £120)	£28 per container up to a maximum of £84
Non-working Customers	No change (£50)	£28 per container up to a maximum of £56

3.11 The report also advised Members that the existing provisions for agreeing exemptions to the policy would continue if the recommendations were agreed.

3.12 The Executive meeting approved the recommendations and they were implemented with effect from 5th November 2007.

3.13 Executive Meeting – February 2010

At the Executive meeting of 15th February 2010, Members considered a report from the Director of Finance and Corporate Resources which reviewed fees and charges for 2010/11. This report included proposals to amend the furniture charging policy, as follows –

(i) All customers, including those who had been receiving a free service, to be charged the full cost of the service.

(ii) That the charges to customers should reflect the current rates for removals and storage paid by the Council to their contractor, and should be levied at the same rate for both working and non-working customers.

(iii) That Members approved the schedule of charges as follows -

Charges	Removals / Delivery	Monthly Storage
For all customers	Up to £120 per removal	£32 per container

- 3.14 The report noted that the proposed charges reflected the contractor costs paid by the Council, but excluded the costs incurred by the Council in administering the service. The report also stated that the proposed charges were generally lower than the rates that would be charged by private contractors to domestic customers.
- 3.15 The report explained that if the recommendations were agreed, customers would be given the opportunity to either have their personal property delivered to them, or to make arrangements for the Council to dispose of their goods at no charge, if they did not wish to pay the storage charges.
- 3.16 The report also provided Members with the outcome of a consultation exercise carried out with customers who were receiving a free service from the Council, seeking their views on the proposals.
- 3.17 The Executive meeting agreed the recommendations and they were implemented with effect from 3rd May 2010.
- 3.18 During 2009/10, the Council awarded the contract for the furniture removal, delivery and storage service to a new contractor. The new contract came into place with effect from 1st April 2010. Under the new contract, the monthly (4 weeks) storage cost per container was reduced to £21 per container, and this is the charge that is currently being made to customers.
- 3.19 Current Proposals
Since the last set of proposals was agreed by the Executive in February of this year, a further review of the policy has been carried out. Based on this review and after obtaining confidential external legal advice following receipt of a judicial review threat on behalf of a customer regarding the affordability of the charges for non-working customers, officers consider it appropriate to ask the Executive to consider further amendments to the policy at this time.
- 3.20 It is therefore recommended that the following schedule of rates be applied with effect from 29th November 2010 to all new requests for assistance and to existing goods in storage. This includes customers whose belongings were in storage before charging was first introduced in January 2006.

Charges	Removals / Delivery	Monthly Storage (4 weeks)
Working Customers	Minimum charge £56, maximum £168	£18 per container, up to a maximum of £36
Non-working Customers	£28	£10 per container, up to a maximum of £20

Cost paid by Council	Removals / Delivery	Monthly Storage (4 weeks)
Contractor costs	£80 per container	£21 per container

3.21 For the purposes of comparison, the rates that the Council currently pays to its contractor are summarised above. Members will note that the proposed charges to customers are significantly lower than those that the Council pays to the contractor. Non-working customers would pay 35% of the full cost for removals and just under 50% of the full cost for storage. Working households would pay 70% of the full cost for removal and approximately 85% of the full cost of storage. In addition, the Council would continue to incur administrative costs in delivering the service to customers, which are not included in the figures above. Members will note that the proposed charge of £2.50 per container per week to non-working households on benefits, is being levied after taking into careful consideration the means of the average non-working customer and that storage charges are not ordinarily covered by Housing Benefit. This is a reasonable charge on non-working households on benefits and one that the majority of non-working households will be able to afford within their limited means. Those non-working households on benefits who genuinely cannot meet this charge can apply for exemption from the charges as set out in paragraph 3.25 below.

3.22 Exemptions from the Policy

The Council is entitled to make a reasonable charge to customers for the provision of these services. For a non-working household on benefits, the storage cost will be £2.50 per container per week (the containers have a capacity of 250 cubic feet, and most households' belongings are stored in one to two of these).

3.23 However there has always been a mechanism for considering requests for an exemption to the charging policy. When a request is received, the reasons and the households' circumstances are carefully considered by a panel of senior officers before reaching a decision. This includes consideration of the issue of affordability and the household's ability to meet the charges.

3.24 As part of the implementation process for these recommendations if agreed by Members, officers will ensure that all documentation given to customers regarding the service includes an explanation as to how to request an exemption.

3.25 Exemption requests will be considered on a case by case basis, and will take into account the individual households' circumstances. Appendix A provides details of the criteria to be considered. We will also ensure that the documentation given to customers advises them to notify the Council of any change in their financial circumstances which could impact on their ability to pay.

4.0 Financial Implications

4.1 The total agreed budget for expenditure on removals & storage for 2010/11 is currently £205,700. This budget takes account of £80k additional income for 2010/11 on the basis of the savings which were expected to be made as a result of the recommendations made in the February 2010 report to Executive.

- 4.2 If the recommendations in this report are agreed, there will be an impact on the Temporary Accommodation budget, as the £80k additional income included in the original budget will not be achieved. It is estimated that £39k income will be achieved in 2010-11 and £54k in 2011-12. There will therefore be a shortfall of income in 2010-11 of £41k and £26k in 2011-12, and officers will seek to absorb these shortfalls within the overall Temporary Accommodation budget.

5.0 Legal Implications

- 5.1 Under section 211 of the Housing Act 1996, the Council has a legal obligation to take reasonable steps to prevent the loss of, or to prevent or mitigate the damage to, the personal property of homeless persons where the Council has reason to believe that there is a danger of loss or damage to those goods because of the homeless persons' inability to protect or deal with them and in the absence of other suitable arrangements being made. Under section 211(4), the Council is also allowed to make reasonable charges to homeless applicants for removals and storage of personal property as it considers appropriate to the particular case.
- 5.2 In paragraph 20.6 of CLG's Homelessness Code of Guidance for Local Authorities of July 2006, it gives two examples of where homeless applicants may be unable to protect their personal property. Those examples are where the applicants are ill and where they are unable to afford to have the property stored themselves. It follows that affordability is an issue that needs to be taken into account when considering levying reasonable charges for the storage and removal of property.
- 5.3. The Council owes a duty under section 211 of the Housing Act 1996 ("the 1996 Act") towards homeless applicants as set out above in paragraph 5.1 if the Council owes the homeless applicants one of the following duties: (a) interim duty to accommodate under section 188 of the 1996 Act; or (b) duties to persons found to be homeless or threatened with homelessness under sections 190, 193 and 195 of the 1996 Act; or (c) duties to applicants whose cases are considered for referral or referred to other local authorities under section 200 of the 1996 Act.
- 5.4 If a homeless applicant refuses to pay the charges set by the Council which it considers to be reasonable, the Council is entitled to discharge its duty under section 211 of the 1996 Act to hold the applicant's belongings in storage by giving notice in writing pursuant to section 212(4) of the 1996 Act and giving the reasons why the duty has been discharged. After that duty has been discharged, the Council is entitled to give notice to the applicant in writing to collect his belongings within a period of at least one month or else the belongings will become vested in the ownership of the Council leaving the Council to dispose of the belongings as it sees fit, pursuant to section 41 of the Local Government (Miscellaneous Provisions) Act 1982.

5.5 Further detailed legal implications are set out in the below the line supplementary report in Appendix B.

6.0 Diversity Implications

6.1 An equalities impact assessment in regard to these proposals has been carried out. There are no specific diversity implications arising from these recommendations.

7.0 Staffing/Accommodation Implications (if appropriate)

7.1 None specific.

8.0 Background Papers

Executive

Temporary Accommodation Update (01/06)

2008/09 Budget Process Update and First Stage Savings (10/07)

Review of Fees and Charges for 2010/11 (02/10)

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Appendix A – Draft Guidance on Exemptions

Draft

Guidance to Officers Considering Exemption Requests in relation to the Furniture Charging Policy.

Summary

This document is intended to assist officers in the decision making process when considering requests for exemptions to the furniture charging policy.

Current Charges

The current charges were agreed at the Executive meeting held on 18/10/10, and are as follows –

Charges	Removals / Delivery	Monthly Storage (4 weeks)
Working Customers	Minimum charge £56, maximum £168	£18 per container, up to a maximum of £36
Non-working Customers	£28	£10 per container, up to a maximum of £20

These charges are effective from 29th November 2010 onwards and apply to all new requests for assistance and to existing goods in storage. This includes customers whose belongings were in storage before a charging policy was first introduced in January 2006.

Exemption Requests

Customers can request an exemption from the charges laid out above either when they first request the Council's assistance in storing their belongings, or at any time during the period that their belongings are in storage.

Exemption requests can be made verbally or in writing.

Exemption requests will be considered by two senior managers within the Housing Resource Centre, who will arrange for the customer to be notified in writing of their decision.

Considering an Exemption Request

The proposed charge of £2.50 per container per week to non-working households on benefits has been agreed after taking into careful consideration the means of the average non-working customer in receipt of benefits. It is expected that the majority of non-working households will be able to afford this, within their limited means.

Requests for exemptions will be considered on a case by case basis, taking into consideration households' individual financial circumstances and ability to pay. Criteria to be considered include –

- Whether a household would face significant financial hardship resulting in the household having to live beyond their means if they were required to pay the charges as outlined above,
- Whether there are other exceptional factors which mean that a household cannot reasonably be expected to pay the charges as set out above. Senior officers should give proper consideration to every request for exemption on the basis of the individual circumstances of the household. It is not possible to provide an exhaustive list of what may constitute exceptional factors and may include factors such as customers' with a mental health condition or learning disability and those who are chronically sick etc.

Where senior officers are satisfied that a household cannot pay the charges as set out in the above table, consideration should also be given as to whether it is reasonable to expect them to pay a proportion of the charges, taking into account the factors outlined above.

On a request by a customer to be exempted from the charges as set out in the table above, senior officers may decide either that (i) the charges are affordable by the customer; or (ii) only a proportion of the charges are affordable by the customer; or (iii) the customer will not be required to pay the charges.

Decision Making

The decision of the two senior managers is final, and will be notified to the customer in writing and if not received by the customer, will be treated as having been given after it has been made available at the Housing Resource Centre for a reasonable period for collection by the customer or on its behalf.

Any further representations or requests for re-consideration after the decision has been notified to the customer, should be treated by senior managers as a fresh request for exemption from the charges.