

Decision maker : Cabinet Member for Culture, Leisure and Sport

Date of meeting: 12 October 2012

Subject: Allotments Charges from November 2013

Report by: Head of Transport and Environment

Wards affected: All

Key decision: No

Full Council decision: No

1 Purpose of report

- 1.1 To seek approval for a strategy to achieve full cost recovery on the provision of allotments by the city council.

2 Recommendations

- 2.1 That approval is given to set allotment charges due in November 2013 as detailed in Option 1 (section 4.1) of this report.
- 2.2 That approval is given to investigate the transfer of allotment management to the allotment associations, as detailed in Option 2 (section 4.2) of this report.

3 Background

3.1 Background information and current charges

- 3.1.1 There are 1714 allotment plots provided by the city council on 8 sites. Plots are measured in terms of rods with a single rod being an area of land equal to 25.3m². Plots vary in size from 3 rods to 10 rods with the average size of a plot being 5.5 rods (140m²).
- 3.1.2 The provision of allotments is very popular, with the waiting time for new plots being over three years.
- 3.1.3 Plots are currently charged on a flat rate per rod (£6.96 per rod in 2012 at full rate). This is 74p a week at full rate for the average plot.
- 3.1.4 54% of allotment holders receive a reduction either because they are over the age of 60 or because they have a PCC Leisure Card. Reductions are 40% for leisure card holders (meaning the average plot costs 44p per week) and 37% for people over the age of 60 (meaning the average plot costs 46p per week).

- 3.1.5 The tenancy year runs from November to November and existing tenancy agreements require the city council to give 12 months notice of changes in charges. Therefore the charges for the 12 months starting Nov 2012 have already been set and approved in December 2011 with an 11.9% increase. Any changes to allotment charges resulting from this report will come into effect in November 2013.
- 3.1.6 Total income from allotment charges (including the huts that the council rent out on allotment sites) was £54,500 in 2011/12.
- 3.1.7 Officers have benchmarked allotment prices nationally and charges range from £0.25 a rod to £13.92 a rod. Mean average cost (of those who responded) is £4.55 per rod compared with £6.96 per rod in Portsmouth. However this does not account for regional variation or the services provided by each council.
- 3.2 Current expenditure on service provision and full cost recovery
- 3.2.1 The operating expenditure for the sites for the full financial year 2011/12 was £91,000, with an average spend over the last three years being £83,800 pa. Details of the expenditure during 2011/12 are shown in Appendix 1.
- 3.2.2 Certain capital and project works were not included in the operating expenditure. This includes:
- a) Creation of new plots at Milton Allotments in 2009/10 and 2010/11:£28,600
 - b) Trial (ultimately unsuccessful) of push button taps at Horsea Lane Allotments in 2009/10 :£2,000
 - c) Removal of communal compost heaps across the city in 2009/10 :£16,800
- 3.2.3 The operational expenditure does not account for administration resources, enquiries and plot inspections. A recent review of allotments administration indicated that the cost of this administration is currently £21,000 per year.
- 3.2.4 On 16th December 2011 approval was given to increase charges to eliminate the subsidy over 2 years. City Councillors have since indicated that full cost recovery on this service should be achieved within two years.
- 3.3 Consultation
- 3.3.1 Consultation with the allotment associations has taken place over the past year on a number of proposals for how the operational costs of providing allotments can be covered by the income received. The details of this process are shown in Appendix 2.
- 3.3.2 A meeting took place on the 5th September 2012 between an allotment officer and the associations where their comments were received. These are summarised in Appendix 2, along with a number of comments by email (3) from individual allotment association members.

3.3.3 The proposals did not include an option for full cost recovery i.e. that includes the administration cost to the city council. However it is correct that this is considered at this time.

3.4 Reducing expenditure and maximising value for money

3.4.1 The regular scheduled grounds maintenance tasks undertaken by city council contractors (cutting grass in shared areas, strimming, and pruning hedges) were seen as an area where the city council could improve efficiency. The associations felt that the standard of this work was not high given the cost of it. However the rates for the tasks undertaken were competitively tendered as part of larger grounds maintenance contracts, and as such represented best value for money at the time of tendering.

3.4.2 It was agreed that the allotment officers will undertake a review of the grounds maintenance tasks on allotment sites to ensure that if there are any opportunities to make savings, that these are identified and implemented.

3.4.3 The skips that are provided by the city council at many sites have been considered as a potential source of significant savings. The city council spent £16,600 on providing skips at allotment sites in 2011/12. The associations from the four largest sites (Milton, Moneyfields, Longmeadow and Horsea Lane) expressed their desire that skips should no longer be provided as they are habitually misused by allotment tenants who put green waste in them, and over-fill them. The skips also normally become full within 24 hours of delivery, but some allotment tenants continue to take refuse to the skip which is often left in piles adjacent to it. This additional tipped waste incurs additional expense to the council who have to clear it away after the skip is collected.

3.4.4 Association representatives from the smaller allotment sites present (Cosham and North Harbour) – who are provided with skips less frequently – did not share this view, and explained that their skips are not misused and are seen as a welcome resource.

3.4.5 It was noted that the contract for provision of skips to allotment sites expires in March 2013.

3.4.6 The implications of stopping providing skips are not clear, and may include an increase in fly-tipping around allotment sites. However consideration has been given to the general view of associations that when communal compost heaps were removed in 2009 there was no consequent increase in fly-tipping of green waste.

4 Pricing options for considerations

4.1 **Option 1 – The city council increase charges under the existing pricing structure with the aim of eliminating the subsidy for the service over two years. In addition, to reduce costs, it will cease the provision of skips to allotment sites.**

- 4.1.1 Calculations of charges are based on the average expenditure over the last 3 years as outlined in section 3.1 above (£83,800) plus the admin cost (£21,000).
- 4.1.2 Under this option, allotment charges will increase to £8.69 a rod (34p per square metre) in November 2013 for the 20013/14 year. This equates to 92p a week for the average plot at full rate, 58p a week for over-60s, 55p a week for Leisure Card holders.
- 4.1.3 In November 2014 a further increase in charges will be applied to enable the service to be run on a cost neutral basis. The cost will increase to £10.85 a rod (43p per square metre). This equates to £1.15 a week for the average plot at full rate, 72p a week for over-60s, 69p a week for Leisure Card holders. This figure is indicative and charges will be set for November 2014 in one year's time taking into account any further savings that may have been achieved.
- 4.1.4 The city council will investigate, with the associations, any further savings that can be achieved in the coming year – particularly regarding waste disposal – and if savings are made this will reduce the charge that is actually made in November 2013.
- 4.1.5 It is recommended that PCC stop providing skips to allotment sites in March 2013 when the current contract with the skip supplier ends.
- 4.1.6 There is no proposed change to the percentage discounts available to leisure card holders or people over 60 years.
- 4.1.7 Charges for huts have been increased in line with inflation only (3.2%) as approved in December 2011.

4.2 Option 2 – Transfer management responsibilities to the allotment associations

- 4.2.1 An alternative to the option above would be to transfer responsibility for managing the city's allotments to the allotment associations. They would manage their sites under a licence from the council and would set charges, receive all the resulting income and undertake all management tasks including grounds maintenance, waste management, division of plots and managing tenancies and the waiting lists. There would be limited input from council officers.

5 Reasons for recommendations

- 5.1 Option 1 is recommended as it addresses the following issues:
- a) Achieves full cost recovery in two years
 - b) Accommodates the associations' desires to seek savings on skips and grounds maintenance
 - c) The possibility of huts becoming prohibitively expensive is addressed by limiting increases in charges to inflation

- 5.2 Option 1 does not address the concerns of some that discounts available to leisure card holders and over-60s are excessive.
- 5.3 Option 2 may be considered for future years as it would eliminate the cost for administration time that otherwise would need to be included in the charges. It is recommended that this option is investigated further by officers over the next 12 months.

6 Equality impact assessment (EIA)

- 6.1 A full EIA has been completed for this report. There are no equalities issues resulting from this report's recommendations.

7 City Solicitor comments

- 7.1 The Smallholdings and Allotments Act 1908 (the Act), sets out a range of powers and responsibilities in relation to allotments. Under the Act, the Council may delegate the *management* of allotments to third parties in the form of, inter alia, allotment associations under the 1908 Act. The requirements around such a delegation is that those delegated to must be residents or Council Tax payers of the Council area. Management is not clearly defined: it will encompass general management functions, but the process of setting rents may be led by those appointed third parties (acting under supervision, and carrying out appropriate consultation), should be referred back to the Council for ratification.
- 7.2 It would seem that appointing the allotment association for a particular set of allotments, made up of the holders of the allotments does have some pitfalls. The primary one is that the association would be setting their own rent, agreeing it with themselves and approving it both as tenants and landlords. This is a substantial conflict of interest and care will be needed to manage those risks.
- 7.3 If however management is restricted to communal matters, maintaining areas not let as allotments and fences and providing communal amenities such as skips etc, then these concerns would not arise. This could be paid for out a grant made by the Council out of rents if the accounts were held by the Council. Where it is proposed that funds are to be held by the association, care should be taken to prudently manage those funds, and it may be necessary to require that the association establish a charitable company entity in order to hold funds.
- 7.4 An alternative would be to let the allotments to the association (assuming it was incorporated) and for the association to let the plots on sub-leases. The Council would set the head rent, possibly free of the constraints on such lettings, and the association, as landlord of the actual plots could set the rents at a level to pay the head rent plus any other charge. Clearly this needs to be investigated and assessed further during the investigation referred to in the report.

- 7.5 The level of rents for Council Allotments governed by the Allotments Act 1950. This states that the rent should *not be any higher than the tenant should reasonably be expected to pay for land let on the terms, other than rent, that it is let on.*
- 7.6 A key question is exactly what elements should be included in the calculation of the rent. This ranges from simply obtaining a return on the land value to recovery of the full cost of the provision of allotments.
- 7.7 If, for example, it were considered that allotments form part of the leisure facilities provided by councils, it may be considered that they should be subsidised in the same way, however, it has been held that allotment gardening was a recreational activity and that rents should be raised in line with costs for other recreational activities.
- 7.8 In summary, there is a risk that rent increases could be challenged as “unreasonable”, determining the reasonableness is a matter of fact which will make reference to other leisure related cost and price increases, and though there is a possibility that a legal challenge could be mounted, as consultation has been carried out with allotment holders in this case, it would seem to be of a low risk in this particular case.

8 Head of Finance’s comments

- 8.1 The implementation of the recommendations in this report aim to achieve full cost recovery for the allotment service within two years which is in line with Council policy.

The proposed increases in charges do not include an allowance for inflation over the two year period which may have an impact on the final position after two years.

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Signed by:
Simon Moon
Head of Transport and Environment Service

Appendices: Appendix 1 City Council expenditure breakdown for 2011/12
Appendix 2 Consultation with the allotment associations

Background list of documents: Section 100D of the Local Government Act 1972

The following documents disclose facts or matters, which have been relied upon to a material extent by the author in preparing this report:

Title of document	Location

The recommendation(s) set out above were approved/ approved as amended/ deferred/ rejected by Cabinet Member for Culture, Leisure & Sport on the 12th October 2012

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 Signed by:
Cabinet member for Culture, Leisure & Sport
Appendix 1 – City Council expenditure breakdown for 2011/12

Water	£14,200
Skips	£16,600
Pest control	£1,000
Toilets	£3,900
Repairs to fences, gates, hedges	£1,600
Electricity	£300
Signs	£300
Hut repairs	£800
Regular scheduled grounds maintenance	£6,400
Additional grounds maintenance (strimming plots, splitting plots, other groundwork)	£17,600
Clearing rubbish (separate from skips)	£10,400
Hazardous waste (blood, asbestos)	£1,400
Repairs to water supply (includes recommission of water supply in spring)	£17,300
Decommission of water supply in autumn	£200
Other costs (equipment, stationery, copying, padlocks, software costs)	£2,100
Sundry credits	-£3,100
TOTAL	£91,000

Summary of expenditure over the last 3 financial years:

Year	Expenditure
2009/10	£83,500
2010/11	£76,800
2011/12	£91,000

Appendix 2 - Consultation with the allotment associations

- a) On 16th December 2011 approval was given to increase charges to eliminate the subsidy over 2 years. The allotment associations were consulted on this proposal prior to its approval. This approval included changes to the level of discount available to people over 60. The change to the over-60 discount was subsequently not implemented, so income for 2012/13 is expected to be £59,900 based on a per rod charge of £6.96.
- b) In July 2012, the allotment associations were sent a proposal for their consideration which outlined increases to charges over the level of inflation with the aim of eliminating the subsidy over 5 years rather than 2 years as approved in Dec 2011 – i.e. achieving a break-even point in 2017/18. This proposal did not include any reference to including admin cost in setting charges.
- c) This proposed an increase in charges for November 2013 to £7.61 per rod (a 9.3% increase), and laid out indicative charges for the subsequent 4 years based on the assumption that expenditure would rise by the level of inflation.
- d) The cost of the rental of huts in communal areas of allotment sites would continue to be increased at the rate of inflation only as approved on 16th December 2011. Inflation (RPIX) at the time of reporting is 3.2%.

Responses to consultation

- e) The associations as a group felt that they could not support the proposal to increase charges over inflation. One association (Durrants, not present at the meeting) supported the proposal by email.
- f) The proposal that the associations received in July 2012 gave indicative charges for the 4 years following November 2013, for information only. They expressed concern that approval was being sought for charges to be set so far in advance. It was explained to them that approval would only be sought for charges due in November 2013, and that charges would be set yearly depending on actual expenditure in the years to come.
- g) The associations proposed a step-wise increase in the age at which tenants receive a discount (currently 60). It was explained to them that this was discussed in November 2011, and that the measure was not implemented following advice from the council's Legal Services Equalities Monitoring Officer that the policy may be discriminatory on the basis of age, and would potentially be legally challengeable.
- h) The associations expressed their view that any increases in charges should be applied with no regard to the discounts currently on offer – i.e. that all tenants would see an equal monetary increase in charges per rod. It was pointed out by the allotment officer that this would have the effect of reducing the level of discount available to leisure card holders and people over 60. It was also pointed out by the allotment officer that a proposed reduction in discount for people over 60 was not subsequently implemented following approval in December 2011.

- i) Two email correspondents expressed their view that the discounts available to leisure card holders and over-60s were excessive.