

EXECUTIVE

DATE: 30TH MARCH 2009
SUBJECT: LOCAL LAND CHARGES FEES
REPORT BY: HEAD OF LEGAL SERVICES
CONTACT OFFICER: MALCOLM LEETE 547198

IMPLICATIONS:

LEGAL	✓	STAFFING
EQUALITIES	✓	COMMUNITY SAFETY
FINANCIAL	✓	RISKS

OTHER

CONSULTATIONS:

COUNCILLORS CONSULTED	✓	SCRUTINY COMMITTEE CONSULTED
STAKEHOLDERS CONSULTED		OTHER

WARDS AFFECTED: All

LEAD EXECUTIVE MEMBER(S): COUNCILLOR SIMMONS

RECOMMENDATION(S)

- 1. Executive is recommended to approve the schedule of charges in relation to local land charges fees based on cost recovery for the financial year 2009/10 set out at Appendix A and Appendix C to this report.**
- 2. Executive is recommended to approve an increase in the fees charged in relation to local land charges search requisitions submitted to the Council via the National Land Information Service (NLIS) set out at Appendix B.**

REPORT

3. The Charges for Property Searches Regulations 2008 came into force on 23 December 2008 which made provision for improved access to local authority held search data by personal search companies, and how this should be charged for. The Charges Regulations:
 - Provide for local authorities to recover the costs of their property search services;
 - Establish a framework for clarity and transparency on how local authorities must charge for search data and how they must account;
 - Provide flexibility for local authorities to develop search services e.g. retailing individual pieces of data and electronic delivery.
4. The underlying principle of the Regulations is that local authorities must make searches information available to all on equal terms and at equal cost.
5. In the past some local authorities have been reluctant to provide all the data to the private sector, arguing that they were unable to recover the costs of doing so, and some search companies have been reluctant to pay for the data. In these circumstances search companies have used insurance to cover any missing data. As a result consumers have received incomplete searches and experienced increased costs. With the framework for full and equal access to local authority held search data now in place the Department for Communities and Local Government are ending the ability of search companies to use insurance on 6 April 2009 this means that they must be able to obtain all the necessary data.
6. The Charges Regulations will deliver benefits to consumers from improved quality personal searches and overall reduced search costs. However, these benefits can only be realised if local authorities provide the necessary access. With effect from 6 April 2009 Luton Borough Council will provide open access to search data.
7. As stated above, the personal search indemnity insurance will be removed as from 6 April 2009. The personal search companies will be obliged to complete all of the questions shown on the official local land charges search enquiry form (CON29R) – See Appendix D.

National Land Information Service (NLIS) – Charging Recommendation

8. From 6 April 2009 all LA's should have undertaken a cost recovery exercise and the result must be an equal charge for an official CON29R search reply regardless of the manner in which the search request is received.
9. Currently LBC offer a different pricing structure in favour of those search applications received electronically against those received through the royal

mail or document exchange ('over the counter' searches). This must change following the Charges for Property Searches Regulations 2008 and there must be one common charge for the assembly of a part I CON29R search response.

10. A full part I CON29R search request received via NLIS is currently £110.00 (residential) and £195.00 (commercial).
The over the counter cost is currently £124.00 (residential) and £229.00 (commercial).
11. Therefore the options are: -
 1. Raise the NLIS fee from £110.00 to £124.00 (residential) and from £195.00 to £229.00 (commercial) to meet the over the counter price.
 2. Reduce the official search fee from £124.00 to £110.00 (residential) and from £229.00 to £195.00 (commercial) to meet the NLIS price.
12. The current uncertainty and depression in the housing market makes the estimate of potential search figures for the coming financial year problematic when there is no suitable economic downturn against which to make an appropriate comparison. To reduce the search fee would leave the service open to a potential short fall in revenue.
13. Therefore it is recommended the NLIS search fee be raised from £110.00 to the over the counter price of £124.00 for residential searches and raise the NLIS search fee for commercial searches from £195.00 to the over the counter price of £229.00.

LEGAL IMPLICATIONS

14. There are no legal implications to this report and this has now been agreed with the Head of Legal Services on 10 March 2009.

EQUALITIES IMPLICATIONS

15. This report has no equality, cohesion and inclusion implications, except in so far as it supports the Government's intention that local authorities must make search information available to all on equal terms and at equal cost to avoid consumers receiving incomplete searches and experiencing increased costs. These implications were agreed by the Performance Review Manager on 9 March 2009.

FINANCIAL IMPLICATIONS

16. The financial implications are set out in the body of the report. The budget for income from land charges fees for 2009/10 has been set on a cost recovery basis taking into account the current depressed state of the housing market. Any significant reduction in fees, or further downward pressure on the market, will result in a challenge to that budget. These implications were agreed by the Finance and Airport Client Manager on 9th March 2009.

COUNCILLORS CONSULTATIONS

17. Councillor Simmons and Harris

OPTIONS

18. Raise the NLIS fee from £110.00 to £124.00 (residential) and from £195.00 to £229.00 (commercial) to meet the over the counter price.
19. Reduce the official search fee from £124.00 to £110.00 (residential) and from £229.00 to £195.00 (commercial) to meet the NLIS price.

APPENDIX

- Appendix A – Schedule of recommendations for the cost of personal searches.
- Appendix B – Form CON29R – Enquiries of the Local Authority (2007 Edition).
- Appendix C – Amendments to Local Land Charges scale of charges for Part 2 and Part 3 enquiries.
- Appendix D – Form CON29R (Enquiries of the Local Authority (2007 Edition).

BACKGROUND PAPERS

The Local Authorities (Charges for Property Searches) Regulations 2008.