

RECORD OF DECISION MADE UNDER DELEGATED AUTHORITY

*PART 1 – PUBLIC DOCUMENT

Any interest to declare/ or conflict and any dispensation granted [*if applicable*]

SERVICE DIRECTORATE: Customers

1. DECISION TAKEN

- 1.1 To amend the fees of Local Land Charges to reflect the current cost of providing the service, as detailed in section 9

2. DECISION TAKER

- 2.1 Jo Dufficy, Service Director - Customers

3. DATE DECISION TAKEN:

- 3.1 07 March 2023

4. REASON FOR DECISION

- 4.1 The Local Authorities (England) (Charges for Property Searches) Regulations 2008 make provision for authorising local authorities in England and Wales to set their Local Land Charges fees based on full cost recovery. The principles of the regulations require authorities to ensure the price charged is an accurate reflection of the costs of carrying out the Local Land Charge function and not for creating surplus. The 'Cost of the Service' should be the total cost of providing the service which will include the direct costs of the Land Charges function and will also include indirect costs such as contributions to central and overhead costs.
- 4.2 The Regulations state that the cost of the local authority of granting access to records must be calculated by dividing a reasonable estimate of the total costs by a reasonable estimate of the number of requests for access likely to be received. A local authority must take all reasonable steps to ensure that over a period of any three consecutive years the total income does not exceed the total costs for granting access to property records. Where a local authority makes an overestimate or underestimate of the unit charge for the financial year, it must take this into account in determining the unit charge for the following financial year.

5. ALTERNATIVE OPTIONS CONSIDERED

- 5.1 The alternative option is to keep fees the same, however, this does not reflect changes to the cost basis of the service. The new fee structure reflects the increase in fees charged by outsourcing of the Building Control CON29 questions to Hertfordshire Building Control, as well as the fee increases from Hertfordshire County Council. The revised fees will take effect during April 2023

6. CONSULTATION

- 6.1 The Executive Member with responsibility for Local Land Charges, Cllr Elizabeth-Dennis-Harburg has been consulted and supports the changes.

7. FORWARD PLAN

- 7.1 This decision is not a key Executive decision and has therefore not been referred to in the Forward Plan.

8. BACKGROUND/ RELEVANT CONSIDERATIONS

- 8.1 Local land and other related searches are an essential part of the property conveyancing process. Searches reveal information about a property or piece of land including planning permissions or restrictions, road adoptions, building control approvals and environmental issues. The purchasers' solicitor/conveyancer uses the information provided to ensure that the purchaser has the right to live or use the property (or land) as intended and is aware of any restrictions that would affect their enjoyment of the same. There is a standard list of questions relating to searches which are listed on the CON29 forms.
- 8.2 The Council is entitled to charge for official searches and enhanced copies of the register and CON29 information. Requests for access to raw data held by the local authority is free of charge in accordance with EIR regulations.
- 8.3 The fees for Local Land Charges searches were last reviewed in April 2022
- 8.4 Every local authority in England and Wales, with the exception of county councils, is required to hold a local land charges register that records obligations affecting properties within their administrative area. Under the Infrastructure Act 2015 responsibility for the 331 registers was transferred to HM Land Registry in a phased approach. The first transfer was in summer 2018. In December 2021 HMLR wrote to all local authorities to confirm which migration year they had been allocated to, based on a regional/cluster approach. Our migration year is scheduled for 22/23 with an agreed go-live date of 7th Dec 23. A separate report will be prepared later on in the year to revise the fees in September 2023 as NHC will only provide CON29 search results going forward.
- 8.5 The revised scale of fees is detailed in Table 1 which compares these against the current fee scale. The cost of a full residential search will increase from £100.00 to £111.00 (excluding VAT) and a full commercial from £110.00 to £122.00 (excluding VAT).

Table 1 – Scale of Fees

	Current Fee (exc VAT)	Revised Fee (exc VAT)	Increase / Decrease (exc VAT)	Current Fee (Inc VAT)	Revised Fee (Inc VAT)
LLC1	£20.00	£21.00	£1.00	n/a	n/a
CON29 Residential	£80.00	£90.00	£10.00	£96.00	£108.00
CON29 Commercial	£90.00	£101.00	£11.00	£108.00	£121.20
Full Search – Residential	£100.00	£111.00	£11.00	£116.00	£129.00
Full Search – Commercial	£110.00	£122.00	£12.00	£128.00	£142.20
Optional	£8.50	£9.50	£1.00	£10.20	£11.40

Enquiries Q4-21					
Optional Enquiries Qu22	£25.00	£29.70	£4.70	£30.00	£35.64

- 8.6 The total cost of the Local Land Charge service is estimated at £164K. The total income is estimated at £163.5k. The estimated figures of 1508 are based on the number of search requests made up to 31.3.23.

Table 2 – Number of Searches

	2019/20	2020/21	2021/22	2022/23
LLC1 (Local Land Charges Register) only	6	7	1	2
Residential Properties (LLC1 & CON 29)	1590	1413	1392	994
Commercial (Land or Property) (LLC1 & CON29)	201	157	184	188
CON29 Optional Questions including question 22	241	294	358	324
Total number of searches including optional questions	2039	1871	1933	1508
Personal Search (enhanced detailed copy of the Local Land Charges Register)	1426	1830	1793	1664

*Personal Search – no charge

9. LEGAL IMPLICATIONS

- 9.1. The setting of Land Charges Fees is delegated to the Service Director – Customers in accordance with Section 14.6.6 (b) (vi) (b) of the Councils Constitution.
- 9.2. There is a statutory requirement for the Local Authority to maintain the Local Land Charges Register under the Local Land Charges Act 1975.
- 9.3. There is a statutory requirement for the Local Authority to maintain other public registers and allow access to members of the public. The rules for access vary depending on the nature of the information and the format in which it is held.

10. FINANCIAL IMPLICATIONS

- 10.1. The calculation of the charges should ensure that the full cost of providing the service is covered. There is an element of uncertainty when calculating these costs as the volume of predicted searches is an estimate based on previous years data and demand may fluctuate. If search numbers are higher than assumed, then a surplus will be generated and if lower then there will be an impact on the Councils general fund. There may also be a loss to our income as a result of HMLR undertaking the LLC1 searches from Dec 2023. There will be a further review of fees in September 2023.
- 10.2. The Local Land Charges team has worked with the Finance Team to agree the revised fees.
- 10.1. The table at 8.6 shows the number of searches carried out during the previous four years. The estimated search numbers of 1,715 for 2023/24 are based on an average of the last two years.

11. RISK IMPLICATIONS

11.1 The risk to the Land Charges service and fee income is monitored and reported through Pentana.

12. EQUALITIES IMPLICATIONS

12.1 In line with the Public Sector Equality Duty, public bodies must, in the exercise of their functions, give due regard to the need to eliminate discrimination, harassment, victimisation, to advance equality of opportunity and foster good relations between those who share a protected characteristic and those who do not.

12.2 This universal service is used by those who have a specific need to access property related information when undergoing a property transaction and residents viewing planning/highways information. The Local Land Charges procedure is a single, consistently applied statutory process and it is applicable to all groups equally.

13. SOCIAL VALUE IMPLICATIONS

13.1 The Social Value Act and “go local” policy do not apply to this decision.

14. ENVIRONMENTAL IMPLICATIONS

14.1. There are no known Environmental impacts or requirements that apply to this report.

15. HUMAN RESOURCE IMPLICATIONS

15.1 There are no human resource implications arising from this report.

16. BACKGROUND PAPERS

16.1 None.

17. APPENDICES

17.1 None

NOTIFICATION DATE

10 March 2023

Signature of Executive Member Consulted



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Date 07 March 2023



Signature of Decision Taker

Please Note: that *unless urgency provisions apply* EXECUTIVE decisions cannot be implemented until 5 clear working days have elapsed after the decision has been taken to allow for scrutiny call-in.

Call-in does not apply to NON-EXECUTIVE DECISIONS