

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 8

2. DECISION TAKER

- 2.1 Jo Dufficy, Service Director - Customers

3. DATE DECISION TAKEN:

- 3.1 16 March 2021

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 Charge 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 including the direct costs of the Land Charges function and indirect costs such as contributions to central and overhead costs.
- 4.2 The fees for Local Land Charges searches have not been reviewed since April 2016 and the current charges do not reflect the cost of providing the service.

5. ALTERNATIVE OPTIONS CONSIDERED

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 outsourcing of the Building Control CON29 questions to Hertfordshire Building Control, as well as the fee increases from Hertfordshire County Council. This means that some fees have reduced, and others have increased. The revised fees will take effect from 01 April 2021.

6. CONSULTATION

- 6.1 The Executive Member with responsibility for Local Land Charges, Cllr Martin Stears-Handscomb 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 2016, they have not been reviewed since then as attention was focussed on transferring the Local Land Charges register to HM Land Registry. The transfer of Local services to the Land Registry under the Infrastructure Act 2015 has been delayed with only 12 out of 302 transferred so far. It is now anticipated that our transfer will take place during 2023/24, therefore it is appropriate to now update the fees.

8.4 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 £80 to £94 (excluding VAT) and a full commercial from £90 to £104 (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)	Increase / Decrease (Inc VAT)
LLC1	£20.00	£19.00	(£1.00)	n/a	n/a	n/a
Con29 Residential	£60.00	£75.00	£15.00	£72.00	£90.00	£18.00
Con29 Commercial	£70.00	£85.00	£15.00	£84.00	£102.00	£18.00
Full Search – Residential	£80.00	£94.00	£14.00	£92.00	£109.00	£17.00
Full Search – Commercial	£90.00	£104.00	£14.00	£104.00	£121.00	£17.00
Optional Enquiries Q4-21	£9.00	£8.00	(£1.00)	£10.80	£9.60	(£1.20)
Optional Enquiries Q22	£20.00	£24.00	£4.00	£24.00	£28.80	£4.80

8.5 The cost of delivering the Land Charges service includes the fees charged by Hertfordshire County Council (HCC) and Hertfordshire Building Control (HBC) for providing responses to certain questions which form part of the Con29 enquiries. Both HCC and HBC apply annual increases to their fees and the increase to the Con 29 fees reflects the uplift in these fees. These charges will vary depending on the number of searches in the year. HCC have increased their fees annually, but our search fees have not changed to reflect these increases until now. HBC charges have not been included in our fees since they started providing responses to the CON 29 enquires from 2019/20. This has resulted in a significant increase of 25% for Con29 Residential searches and 21% for Con 29 Commercial searches,

therefore including these is required to accurately reflect the updated cost of the service provision.

- 8.6 The total cost of the Local Land Charge service is estimated at £175,000. The total income is estimated at £176,000 (the difference being due to rounding's) The estimated figures are based on the number of search requests made in 2019/20. The number of search request in 2019/20 were 2039 as shown in Table 2.

Table 2 – Number of Searches

	2017/18	2018/19	2019/20	2020/21 - until 31/01/21
LLC1 (Local Land Charges Register) only	18	815	6	6
Residential Properties (LLC1 & Con 29)	1227	1186	1590	1171
Commercial (Land or Property) (LLC1 & Con29)	163	204	201	131
CON290 Optional Questions including question 22	378	102	241	287
Total number of searches including optional questions	1786	2307	2038	1595
Personal Search (enhanced detailed copy of the Local Land Charges Register)	868	1234	1426	1498

*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 14.6.4 (a) (viii) of the Council's Constitution, which allows the Service Director to set fees in accordance with the Council's Financial Regulations and relevant policies and in consultation with the Executive Member, in this case Councillor Martin Stears-Hanscomb.
- 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, which the Council does in compliance with the Act. The Act also requires that Local Authorities, when specifying new fees for local land charges services, must specify the date on or after which they will be payable, ideally announce them in advance of their application and in a reasonable time before they come into force. In this case the Council intends to bring the new into force on 1 April 2021, and so is in compliance with the Act.
- 9.3. The increase in Land Charges fees is relatively modest and should not deter prudent buyers from using the local land charges service in their pre-contract searches.
- 9.4. The increase in Land Charges fees in accordance with the legal requirement that costs are recovered on a cost recovery basis only.

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.

10.2. The Local Land Charges team has worked with the Finance Team to agree the revised fees. The revised fee structure is based on a similar number of searches being requested as in the previous financial year (2019/2020) and any variance above or below this figure would impact on the projected income for the year.

10.3. The table at 8.6 shows the number of searches carried out during the previous four years, this indicates that the numbers each year are consistent and therefore a good benchmark on which to base the revised fees.

11. RISK IMPLICATIONS

11.1 The risk to the Land Charges service and fee income is monitored and reported through Pentana. The charges make an assumption about demand and therefore there is a risk of over or under recovery of costs.

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

Signature of Executive Member Consulted



Date 16 March 2021



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