

NORTH LINCOLNSHIRE COUNCIL

**POLICY AND RESOURCES
CABINET MEMBER**

**REVIEW OF THE PERFORMANCE OF THE LOCAL LAND CHARGES
SERVICE AND LEGAL SERVICES CHARGING POLICY**

1. OBJECT AND KEY POINTS IN THIS REPORT

- 1.1 To review the performance of the Local Land Charges Service.
- 1.2 To revise the charges made by Local Land Charges and Legal Services

2. BACKGROUND INFORMATION

Local Land Charges

- 2.1 During the current financial year (i.e. up to 31 January 2014) 1649 Official (in house" Searches (this figure also include LLC1 searches) have been received. The total for the whole of the financial year 2012/2013 was 1673 (a total of 1406 from 1 April 2012 to 31 January 2013).
- 2.2 The number of searches undertaken in the current year to date demonstrates an increase when compared with the previous year. Local Land Charges income reached the sum of £120,801.00 at the end of January 2014 against a profiled year to date budget of £97,216.66.
- 2.3 The number of personal searches carried out by private search companies for the current year to date (i.e. up to 31 January 2014) is 857 which is more than for the same period last year but significantly less than for the whole of the year 2008/09 when 2736 and for the whole of the year 2009/10 when 2308 were carried out.
- 2.4 Of the total number of searches handled by the Local Land Charges Service in the current financial year (i.e. up to 31 January 2013) the proportion carried out in-house was 66% with 34% which were carried out as personal searches. In the previous year (for 1 April 2012 to 31 January 2013) the split was 68% was carried out in-house and 32% personal searches showing a slight reduction, where compared with the previous

year in the number of searches handled by Local Land Charges Service.

- 2.5 87 searches have been received via the electronic hub during the current financial year to date (i.e. up to 31 January 2014) which can be compared with 135 for the whole of the previous year 2013/2014.
- 2.6 As in previous years, the annual survey of local solicitors was undertaken in January 2014. 30 questionnaires were sent with 10 responses received. The vast majority of the responses rated the service provided as either good or excellent.
- 2.7 Of the responses, "Cost/Value for money" 2 rated the service as excellent and 6 good and in respect of "turn around time" 4 rated the service as excellent and 5 good.
- 2.8 The Local Land Charges Service have ensured that 100% of searches have met North Lincolnshire Council's performance indicator of an eight day turn around in the current year to date (i.e. up to 31 January 2014).
- 2.9 The Service can send and receive requests for information electronically to and from relevant service areas. In addition searches can now be received and transmitted electronically. Work on providing a full electronic service whereby the Service can extract information itself from other services' databases is proceeding.
- 2.10 Also the massive task of transferring the paper based land charges registers into electronic format is continuing.
- 2.11 Many of the private search providers have now either brought or formally confirmed that they are bringing proceedings, against Local Authorities based on claims, that the information provided in a personal search, should be available to be accessed, free of charge in accordance with the provisions of The Environmental Information Regulations. They have either brought claims or formally indicated that they are to bring claims by way of refund which have been paid, going back six years, to Local Authorities in respect of such searches. This is on going.
- 2.12 The current charges made are as follows:

Standard Search Fee	£72 (For postal and electronic searches)
Official Certificate only	£56 (For postal and electronic searches)
LLC1 only	£21
CON29R only	£12
Additional Parcels	£12.00 each

Part II Enquiries

Additional Enquiries to be assessed on receipt
Printed Enquiries
Enquiry 4 - 22 (inclusive) £4.00 each

If a CON29 (Optional) is submitted on its own a £6.50 administration fee needs to be added to the Enquiry Fee.

Legal Discretionary Fees

2.13 A review has been undertaken of the charges made by Legal Services (incorporating Commercial Practice) following the Report received from the CIPFA Benchmarking Club.

2.14 The charges are set out in the Appendix to this Report as follows:

Table A - details of the fees charged on a fixed fee basis for the more routine property transactions

Table B - details of the hourly rate of the officers undertaking the work in Table A and which will be charged on all other contentious/non-contentious matters where appropriate to do so.

Table C - details of fees charged on a percentage basis for property transactions that attract grant funding or realise a capital receipt.

3. OPTIONS FOR CONSIDERATION

Local Land Charges

3.1 The amounts referred to in paragraph 2.12 above were calculated in accordance with the formula set under the 2008 Charging Regulations which seeks to apply a cost recovery charging basis. On that basis it is considered that an increase in the charges made should be applied.

3.2 On this basis, the proposed fees for the year 1 April 2014 to 31 March 2015 would be as follows

Standard Search Fee	£85 (For postal and electronic searches)
LLC1 only	£60
CON29R only	£25
Additional Parcels	£15.00 each

Part II Enquiries

Additional Enquiries to be assessed on receipt
Printed Enquiries
Enquiry 4 -22 (inclusive) £5.00 each

Where CON290 only is received, an administration charge of £7.00 will be charged in addition to the cost of replying to each question.

- 3.3 It should be noted that VAT may be introduced to Local Land Charges fees in the future and confirmation of this is awaited from HM Revenue and Customs.

Legal Services Discretionary Fees

- 3.4 The options are to retain the existing fees, increase the fees or introduce a different structure.

4. ANALYSIS OF OPTIONS

Local Land Charges

- 4.1 The proposed charges appear to be competitive when compared with near neighbours who charge as follows in respect of a full search:

North East Lincolnshire Council £100.00, East Riding of Yorkshire Council £130.00 (Commercial £160.00), West Lindsey District Council £100.00 and Hull City Council £115.00.

Legal Services Discretionary Fees

- 4.2 The proposal is to increase the charges made by Legal Services for work other than the fees charged in connection with Local Land Charges by £5.00 per hour.
- 4.3 The Appendix shows the current level of fixed fees for work undertaken by the Legal Service in Table A Column 2 and the current hourly rate for its officers in Table B Column 2. The proposed rates are set out in Column 3 in both Tables.
- 4.4 The increase reflects a reasonable estimate for the cost of providing the service based on a tiered cost recovery approach and compares favourably with the charges made in the private sector which are around £200 per hour.

5. RESOURCE IMPLICATIONS (FINANCIAL, STAFFING, PROPERTY, IT)

- 5.1 The Local Land Charges budget situation needs to be monitored, particularly given the claims brought or to be brought by private search providers in the event that such claims are successful. In respect of Legal Services, the small increase in fees should generate income for the budget.

6. OUTCOMES OF INTEGRATED IMPACT ASSESSMENT (IF APPLICABLE)

6.1 The continued use of IT in the Local Land Charges work should result in a reduction in the amount of paper used.

6.2 There are no diversity implications involved in the recommendations made.

7. OUTCOMES OF CONSULTATION AND CONFLICTS OF INTERESTS DECLARED

7.1 The consultation referred to in paragraphs 2.6 and 2.7 has been borne in mind when settling this Report.

7.2 Consultation with Finance has been undertaken and this report reflects their views.

7.3 Liaison between the Council, The Local Government Association, the Institute of Local Land Charges Officers and neighbouring authorities will continue to monitor and assess the implications of any challenges to the current local land charges regime brought by private search providers.

8. RECOMMENDATIONS

8.1 That the local land charge fee structure as set out in paragraph 3.2 be implemented with effect from 1 April 2014.

8.2 That the legal fees be adopted as proposed in the Appendix with effect from 1 April 2014.

DIRECTOR OF POLICY AND RESOURCES

Civic Centre
Ashby Road
SCUNTHORPE
North Lincolnshire
DN16 1AB
Author: /Mr S J L Batt
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Background Papers used in the preparation of this report

Nil

**APPENDIX
DISCRETIONARY LEGAL FEES
LIST OF FEES AND CHARGES
Table A**

DETAILS	CURRENT	PROPOSED
Leases Licences	A minimum of £340 – i.e. 4 hours work – work thereafter charged at the hourly rate based on Table B (below)(ii)	A minimum of £350 – i.e. 4 hours work – work thereafter charged at the hourly rate based on Table B (below)(ii)
S 38 Agreements S106 Agreements S278 Agreements	A minimum of £765.00 – i.e. 9 hours work – work thereafter charged at the hourly rate on Table B (below)(ii)	A minimum of £810.00– i.e. 9 hours work – work thereafter charged at the hourly rate on Table B (below)(ii)
Deed of Grant and Easements etc Sales of miscellaneous land at the request of the Buyer Licences to Assign/Sublet	A minimum of £340.00 – i.e. 4 hours work – work thereafter charged at the hourly rate on Table B (below)(ii)	A minimum of £360 i.e. 4 hours work – work thereafter charged at the hourly rate on Table B (below)(ii)
Consent by letter to Assignment/Mortgage – Leasehold Properties	£145.00	£147.50
Abstracts/Epitome of Reversionary Freehold Title	Not less than £155.00	Not less than £157.50
Miscellaneous retrospective consents/inspections	Min 1 hour at relevant fee earner rate	Min 1 hour at relevant fee earner rate
Miscellaneous legal/administrative charges	Approved hourly rate	Approved hourly rate
Notices fees on Assignments, Mortgages etc of industrial premises	Amounts fixed by lease but otherwise not less than £85.00	Amount fixed by lease but otherwise not less than £87.50
Letter of Postponement	£82.50	£87.50
Registration Fees:		
HAA Notice of Mortgage/Charge	£45.00	£47.50
Supplying: Title No:	£35.00	£37.50

Epitome of Title	Not less than £85.00	Not less than £87.50
Mortgage Redemptions	£85.00	£87.50
Photocopying	23p per sheet	24per sheet
Supplying miscellaneous copy documents	Not less than £85.00	Not less than £87.50

Table B

Hourly charge

Officer	Current Rate	Proposed Minimum Rate
(i) Head of Legal Services	£105.00	£110.00
(ii) Solicitors	£85.00	£90.00
(iii) Legal Assistants/Trainee Solicitors	£67.50	£72.50
(iv) Admin	£55.00	£60.00

Table C

***Fees for Capital Receipt/Grant Funded Transactions**

Value of receipt/amount of grant funding	
Up to £30,000	Minimum fee of £720
Between £30,001 and £60,000	2%
Between £60,001 and £150,000	2% of first £60,000 1.5% of the balance up to £150,000
Over £150,001	2% of first £60,000 1.5% of the next £90,000 1% of anything over £150,000

*In exceptional circumstances the Head of Legal Services may elect to charge on an hourly basis for individual transactions