

NORTH LINCOLNSHIRE COUNCIL

**CORPORATE SERVICES
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 amend the charges made by Local Land Charges and Legal Services.
- 1.3 This report is of an urgent nature because of the timescales involved in introducing the proposed charges.

2. BACKGROUND INFORMATION - Local Land Charges

- 2.1 During the current financial year (up to 28 February 2009) 1062 Searches (this figure also included LLCl only Searches) have been received. The total for the whole financial year 2007/8 was 2456.
- 2.2 Although another month in the year is still to be accounted for it can be seen that there has been a further decrease in the property market with the number of applications far below the levels recorded in some recent years e.g. 2006/7 4169. Naturally this has had a detrimental effect on the budget situation with Local Land Charges income reaching £126,569 at the end of Period 11 (February) against a profiled budget of £154,924. This shortfall is additional to an underachievement of £125,000 which was dealt with in the budget review in October 2008.
- 2.3 It should be noted that although there has been a fall in the number of personal searches carried out by private search companies 2527 as at 28 February compared with 3214 for the whole of 2007/8 the proportion of searches now carried out in house is 30% (20% by post and 10% electronically), the remaining 70% are personal searches.
- 2.4 As in past years in January 2009 a questionnaire was sent to 35 Solicitors' offices. Of these 11 have replied. 2 (0) considered applications were dealt with "very quickly", 8 (12) "quickly" and 1 (0) "slowly". 5 (6) found Local Land Charges Staff "very helpful" and 6 (6)

"helpful". 2 (4) found them "very accessible" and 9 (8) "accessible". Overall 3 (5) were "very satisfied" with the service offered and 8 (7) "satisfied". All 11 (11) considered the service "value for money". The figures in brackets relate to last year.

2.5 Additional comments were made as follows:-

"Very efficient as always".

"There are odd occasions where the searches take a lot longer than normal but no reason or explanation is given as to why. It would be of great assistance if the reason for delay was identified to us so we could advise our clients".

"Our searches are returned fairly quickly at the moment due to the lack of houses being sold but when the market is normal our searches took a while to come back".

2.6 However it is worth noting when considering the overall results of the service that to date in the current financial year 97.9% (79.9%) of searches have met the service's internal performance indicator of an 8 working day turnaround. The figure in brackets relates to last year.

2.7 The section 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 section can extract the information itself from other services databases is proceeding. It also involves the huge task of transferring paper based data consisting of several thousand entries in Registers onto the electronic database. The downturn in search volume has freed staff up to attend to this exercise which would otherwise have required support to be brought in to progress.

2.8 As previously reported the Government has accepted a report from the Office of Fair Trading that fees set by authorities should reflect costs incurred. This together with open access to all local authority data so as to provide a level playing field between private personal search companies and the in house service has now resulted in new Regulations and Guidance covering these matters.

2.9 As a result of these developments the Project Board which has been overseeing the digitisation of searches has in conjunction with Finance carried out a review of the proper charges to be made against estimates of the likely number of searches which will be received.

2.10 The current charges made are as follows:-

Standard Search Fee £110	(£90 for electronic searches)
Official Certificate only £17	(£14 for electronic searches)
Part II Enquiries £12 each	
Additional Enquiries £17 each	
Personal Search £11 each	(statutory charge)

The reduced standard search fee for electronic searches was aimed to encourage take up. However due to charges made by the NLIS Hub the number of such searches has in fact decreased.

3. OPTIONS FOR CONSIDERATION - Local Land Charges

3.1 As mentioned in paragraph 2.10 above a discounted charge is made for electronic searches. Consideration needs to be given as to whether or not such a discount is removed.

3.2 On the assumption that the proportion of searches carried out by the authority and third parties remains constant (see paragraph 2.3), that the proportion of different search products remain the same and that the total number of searches continues the downward trend shown in last year's search numbers the proper charges would be as follows (if the discount is removed).

Standard Search	£133
Official Certificate Only	£96
Part II Enquiries	£8
Additional Enquiries	To be assessed individually

or if the discount is not removed

Standard Search	£141 (£117 electronic search)
Official Certificate only	£102 (£83 electronic search)
Part II Enquiry	£8 (£7 electronic search)
Additional Enquiries	To be assessed individually

3.3 Given the assumptions set out in paragraph 3.2 but on the basis that the total number of searches is equal to last year's search numbers the proper charges would be as follows (if the discount is removed).

Standard Search	£50
Official Certificate only	£32
Part II Enquiries	£5
Additional Enquiries	To be assessed individually

or if the discount is not removed

Standard Search	£51 (£44 electronic search)
Official Certificate only	£34 (£28 electronic search)
Part II Enquiries	£5 (£5 electronic search)
Additional Enquiries	To be assessed individually

3.4 Given the assumptions set out in paragraph 3.2 but on the basis that the total number of searches is midway between last year's total and next year's total if the current downward trend continues unaltered the proper charges would be as follows (if the discount has been removed).

Standard Search	£75
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Official Certificate only	£52
Part II Enquiries	£6
Additional Enquiries	To be assessed individually

or if the discount is not removed

Standard Search	£79	(£66 electronic search)
Official Certificate only	£55	(£45 electronic search)
Part II Enquiries	£6	(£6 electronic search)
Additional Enquiries	To be assessed individually	

- 3.5 In the above paragraphs figures have been rounded up to the next complete figure. Costings have been calculated and included for the input of the various service teams which contribute to the information comprised in the final search e.g. Environmental Health, Environment Team, Building Control, Development Control, Traffic Team, Highway Control and Spatial Planning together with the Local Land Charges Team itself. These will be the subject of virements to reflect allowable unit costs for each service area.

4. ANALYSIS OF OPTIONS - Local Land Charges

- 4.1 The discount for electronic searches has had no effect in increasing the proportion received in this way. There is currently no benefit or financial incentive for the authority to receive electronic payments as less income is received and an administration fee is charged by the Hub thereby reducing further the net income received. Additionally there is no incentive or benefit for customers as although a reduced search fee is charged the Hub includes an administration and channel fee thereby increasing the total to more than a standard postal search. Accordingly for these reasons it is proposed that the discount be removed.
- 4.2 It is proposed that the option set out in paragraph 3.4 be accepted for the basis of calculating charges. It is difficult to forecast demand in the current economic circumstances. The phased introduction of Home Improvement Packs in which the local search is a component part has also complicated the picture by introducing further players in the search market which in the past was dominated by solicitors as the search formed part of the conveyancing process. This is recognised in the Regulations which provide that as charges will be based on estimated requests charges for following years can be adjusted to take into account any under or over estimate provided that the authority ensures that over three consecutive years charge income has not exceeded total costs.

5. OPTIONS FOR CONSIDERATION - Legal Services Discretionary Fees

- 5.1 As part of the work undertaken through the council's membership of the Unitary Authority Benchmarking Group discretionary fees charged by the Legal Service have been kept under review.

5.2 The legal service undertakes work for external bodies such as the YHGFL consortium and associated groups for which it charges an hourly rate based on the level of officer undertaking the work. Similarly, the service level agreement governing legal advice to schools is based on an hourly rate as are costs recovered in successful court cases. The respective hourly rates are detailed in Table B of Appendix A

5.3 The service also levies a fixed fee charge for the work undertaken on the more routine property transactions. (Table A of Appendix A) and a percentage fee on property transactions generating a capital receipt or which attract grant funding (Table C of Appendix A).

6. OPTIONS FOR CONSIDERATION - Legal Services Discretionary Fees

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

7. ANALYSIS OF OPTIONS - Legal Services Discretionary Fees

7.1 Retaining the current fees would not allow for inflation and not keep them in line with those charged by other authorities.

7.2 It is suggested that any increase in fees is based upon a simple £5 per hour increase charged by solicitors/fee earners for the work they do. This would allow for inflation and keep step with other authorities' charging structures.

7.3 Appendix A 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 new fee structure is set out in Column 3 to both Tables.

7.4 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 costs associated with the private sector which start at around £150/hour locally for solicitors rising to an average of £175 - £225/hour regionally.

8. RESOURCE IMPLICATIONS)(FINANCIAL, STAFFING. IT)

8.1 The budget situation will need to be monitored because of the number of variable factors involved. With regard to legal services, the increase in fees should generate income for the budget.

8.2 Electronic improvements to the system will continue to be developed by the Project Team.

8.3 Virement arrangements which will be reported as part of the Service Director Finance's normal reporting arrangements will need to be put in place to reallocate income to recognise the contribution of other service areas.

9. OTHER IMPLICATIONS (STATUTORY, ENVIRONMENTAL, DIVERSITY SECTION 17 - CRIME AND DISORDER, RISK AND OTHER)

- 9.1 The statutory implications of the Local Authority (Charges for Property Searches) Regulations 2008 have been taken into account in this report.
- 9.2 Further increase in the use of IT in local land charges work should result in a reduction in the amount of paper used.
- 9.3 There are no diversity implications involved in the recommendations made.

10. OUTCOMES OF CONSULTATION

- 10.1 The Government has consulted nationally on the proposals which has resulted in the 2008 Regulations being implemented.
- 10.2 The consultation referred to in paragraph 2.4 has been borne in mind in considering service improvements.
- 10.3 Consultation with service areas affected and Finance has been undertaken and this report reflects the views expressed.

11. RECOMMENDATIONS

- 11.1 That the local land charge fee structure as set out in paragraph 3.4 be implemented with effect from 1 April 2009 and be kept under review.
- 11.2 That the legal fees be increased, and adopted, as proposed in Appendix A with effect from 1 April 2009.

SERVICE DIRECTOR LEGAL AND DEMOCRATIC

Pittwood House
Ashby Road
SCUNTHORPE
DN16 1AB
Author: Mike Wood
Ref: MW/LMK
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Background Papers - Nil

APPENDIX A

DISCRETIONARY LEGAL FEES

LIST OF FEES AND CHARGES

Table A

DETAILS	CURRENT	PROPOSED
Leases Licences	A minimum of £280 - ie 4 hours work - work thereafter charged at the hourly rate based on table B (below) (ii)	A minimum of £300 - ie 4 hours work - work thereafter charged at the hourly rate based on table B (below) (ii)
S38 Agreements S106 Agreements S278 Agreements	A minimum of £630 - ie 9 hours work - work thereafter charged at the hourly rate based on table B (below) (ii)	A minimum of £675 - ie 9 hours work - work thereafter charged at the hourly rate based on table B (below) (ii)
Deeds of Grant and Easements etc Sales of miscellaneous land at the request of Buyer Licences to Assign/Sublet	A minimum of £280 - ie 4 hours work - work thereafter charged at the hourly rate based on table B (below) (ii)	A minimum of £300 - ie 4 hours work - work thereafter charged at the hourly rate based on table B (below) (ii)
Consent by letter to Assignment/Mortgage - Leasehold properties Abstracts/Epitome of Reversionary Freehold title Miscellaneous retrospective consents/inspections Miscellaneous legal/administrative charges Notice fees on Assignments, Mortgages etc of industrial premises	£130 Not less than £140 Min 1 hour at relevant fee earner rate approved hourly rate Amount fixed by lease but otherwise not less than £70	£135 Not less than £145 Min 1 hour at relevant fee earner rate approved hourly rate Amount fixed by lease but otherwise not less than £75

Letter of Postponement	£70	£75
Registration fees:-		
HAA Notice of Mortgage/Charge	£30	£35
Supplying:		
Title No.	£20	£25
Epitome of Title	Not less than	Not less than
	£70	£75
Mortgage Redemptions	£70	£75
Photocopying	18p per sheet	19p per sheet
Supplying miscellaneous copy documents	Not less than	Not less than
	£70	£75

Table B

Hourly Charge

Officer		Current Rate	Proposed Rate
(i)	Legal Services Manager	£90	£95
(ii)	Solicitors	£70	£75
(iii)	Legal Assistants/Trainee Solicitors	£52.50	£57.50
(iv)	Admin	£40	£45

Table C

Fees for Capital Receipt/Grant Funded transactions

Value of receipt/amount of grant funding	
Up to £30,000	Minimum fee of £700
Between £30,000 and £60,000	2%
Between £60,000 and £150,000	2% of first £60,000 1.5% of the balance up to £150,000
Over £150,000	2% of first £60,000 1.5% of the next £90,000 1% of anything over £150,000