

**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 to enable sufficient notice to be given prior to implementation at the start of the new financial year.

**2. BACKGROUND INFORMATION - Local Land Charges**

- 2.1 During the current financial year (up to 28 February 2011) 1348 Official 'in house' Searches (this figure also includes LLC1 searches) have been received. The total for the whole of the last financial year 2009/10 was 1213.
- 2.2 Although another month is yet to be accounted for it can be seen that this year's figures represent an increase when compared to last year's although both years continue to be well below the levels recorded in the years prior to the downturn in the property market e.g. 2006/7 4169. This continues to have an effect on the budget situation with Local Land Charges income reaching £108,399 at the end of period 11 (February) against a profiled budget of £113,619 a shortfall of £5,220.
- 2.3 The number of personal searches carried out by private search companies for the current financial year (up to 28 February 2011) stands at 820 which, when contrasted for the whole of 2009/10 of 2308, shows a marked downturn. It is felt that this may be as a result of the abolition of the 'HIP' property search pack that vendors previously had to provide allied to the continued downturn in the property market generally.

- 2.4 Out of the total number of searches handled by the Local Land Charges Service in the current financial year (up to 28 February 2011), the proportion carried out in-house is 62% against 38% personal searches. Last year the split was 35% in-house against 65% personal searches. Again this marked shift back to in-house provision is, perhaps, further evidence of the impact abolition of the 'HIP' has had on the market.
- 2.5 180 searches have been received via the electronic hub during the current financial year (up to 28 February 2011), which is broadly in line with last year's figure of 191.
- 2.6 As in past years, the annual survey of local solicitors was undertaken in January. 30 questionnaires were sent with 12 responses received. The vast majority of responses rated the service provided as either good or excellent.
- 2.7 On 'cost/value for money' five rated good and four excellent whilst on 'turn around time' five rated good and five excellent. Additional comments received were:
- "As always your service is first class and no doubt you will keep up the good work".
- "The service is very much better and quicker than it used to be and it remains cost effective".
- 2.8 Significantly during the current financial year (up to 28 February 2011) the Service has ensured that 100% of searches have met the Council's performance indicator of an eight working day turn around matching last year's compliance rate.
- 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 the information itself from other services' databases is proceeding and is the subject of regular review by the Land Charges Project Board.
- 2.10 Allied to this the huge task of transferring the paper based land charges registers into electronic format is now well underway, with the records relating to Scunthorpe, Brigg, Winterton and several villages now having been inputted. 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.
- 2.11 The challenges to the charging regime implemented under the Charging Regulations 2008 have continued with private search providers continuing to argue that much of the information contained in a search should be accessed free of charge under the Environmental



Personal Search Con 29 fee £6.18

- 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 Customs and Excise.

#### 4. **ANALYSIS OF OPTIONS - Local Land Charges**

- 4.1 Given the uncertainty posed by the legal challenges brought by the private search providers and allied to the prospect that local authorities, may, if the arguments are accepted, have to repay some, if not all, of the fees that have been paid for search information, it is not felt appropriate at this juncture to make any radical changes to the current charges.
- 4.2 It is worth noting that in adopting these charges, the council's charges would still appear to be competitive when compared to the current fees of its near neighbours who charge the following for a full search - North East Lincolnshire Council £100, East Riding of Yorkshire Council £130 and West Lindsey District Council £96.00.

#### 5. **OPTIONS FOR CONSIDERATION - Legal Services Discretionary Fees**

- 5.1 As part of Legal Services membership of the CIPFA benchmarking club and in light of regular benchmarking discussions with neighbouring authorities, a review of the charging structure of Legal Services' fees has been undertaken.

- 5.2 In essence this review has categorised the fees and charges as set out in the Appendix as follows:-

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

Table B - details the hourly rates 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. The Schools' SLA is based on the hourly rate of B (ii).

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

- 5.3 In due course it is proposed that a discrete charging structure for the specialist commercial/procurement work undertaken by the commercial/procurement arm of the Service be developed and applied. This will settle the charge out rates for the officers engaged in specialist major procurement/capital projects, YHGFL and work

undertaken for North East Lincolnshire Council under the Pathfinder Service.

**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 £2.50 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 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 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 Local Land Charges budget situation will need to be monitored because of the number of variable factors involved but also in light of any changes to the charging regime emanating from the recent challenges brought by private search providers arising from which there is a real prospect that repayment of fees already recovered might be a consequence. 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.

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

9.1 Further increase in the use of IT in local land charges work should result in a reduction in the amount of paper used.

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

## 10. **OUTCOMES OF CONSULTATION**

- 10.1 The consultation referred to in paragraph 2.6 has been borne in mind when settling this report.
- 10.2 Consultation with the Land Charges Project Board and Finance has been undertaken and this report reflects the views expressed.
- 10.3 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.

## 11. **RECOMMENDATIONS**

- 11.1 That the local land charge fee structure as set out in paragraph 3.2 be implemented with effect from 1 April 2011 and be kept under review.
- 11.2 That the legal fees be increased, and adopted, as proposed in the Appendix with effect from 1 April 2011.
- 11.3 That the action in paragraph 5.3 be completed and implemented.

### SERVICE DIRECTOR LEGAL AND DEMOCRATIC

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Background Papers - Nil

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

**Table A**

DETAILS	CURRENT	PROPOSED
Leases Licences	A minimum of £310 - ie 4 hours work - work thereafter charged at the hourly rate based on table B (below) (ii)	A minimum of £320 - 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 £697.50 - ie 9 hours work - work thereafter charged at the hourly rate based on table B (below) (ii)	A minimum of £720 - 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 £310 - ie 4 hours work - work thereafter charged at the hourly rate based on table B (below) (ii)	A minimum of £320 - 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	£137.50  Not less than £147.50  Min 1 hour at relevant fee earner rate  approved hourly rate  Amount fixed by lease but otherwise not less than £77.50	£140  Not less than £150  Min 1 hour at relevant fee earner rate  approved hourly rate  Amount fixed by lease but otherwise not less than £80

Letter of Postponement	£77.50	£80
Registration fees:- HAA Notice of Mortgage/Charge Supplying: Title No. Epitome of Title	£37.50 £27.50 Not less than £77.50 £77.50	£40 £30 Not less than £80 £80
Mortgage Redemptions	£77.50	£80
Photocopying	20p per sheet	21p per sheet
Supplying miscellaneous copy documents	Not less than £77.50	Not less than £80

**Table B**

Hourly Charge

Officer	Current Rate	Proposed Rate
(i) Head of Legal Services/Chief Solicitor	£97.50	£100
(ii) Solicitors	£77.50	£80
(iii) Legal Assistants/Trainee Solicitors	£60	£62.50
(iv) Admin	£47.50	£50

**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

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