

LOCAL LAND CHARGES

Removal of the Statutory Charge applied through Local Authorities (England) (Charges for Property Searches) Regulations 2008 and implementation of Charges for Assisted Searches through Environmental Information Regulations 2004

Cabinet Members	Councillor Keith Burrows & Councillor Jonathan Bianco
Cabinet Portfolios	Planning & Transportation & Finance and Business Services
Officer Contact	Ian Inniss, Planning, Environment and Community Services
Papers with report	Appendices 1&2
Purpose of report	Further to the Government's announcement of the suspension of Home Information Packs and the removal of charges for personal searches to Access to the Local Land Charge Register, Cabinet are asked to approve the removal of fee charges to allow personal searchers access to the Local Land Charge Register and to implement a charging structure for assisted searches
Contribution to our plans and strategies	Local Land Charges contribute towards the following plans & strategies: <ul style="list-style-type: none">• A Borough of Learning & Culture;• A Safe Borough;• A Clean and Attractive Borough;• A Borough with Improving Health, Housing and Social Care;• A borough where opportunities are open to all;• Achieving value for money;• Strengthening planning and performance; and• Building a culture of success.
Financial Cost	The removal of the £22 for Personal searches will result in a loss of income for 2010/11 of an estimated £85,000 (full year impact £145,000). The introduction of fees for assisted personal searches is estimated to generate income of £41,000 (full year impact £80,000), reducing the pressure to £44,000 (full year impact £65,000).
Relevant Policy Overview Committee	Residents' & Environmental Services
Ward(s) affected	All

RECOMMENDATIONS:

The Cabinet:

- a. Approve the removal of the £22 charge to personal searchers for access to the Local Land Charges Register, and
 - b. Note that Home Information Packs have been suspended from 21st May 2010.
 - c. Agrees to the proposed assisted search charging structure in Appendix 2;
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INFORMATION

2. Reason for recommendation

To come in line with legislation and agree cost recovery charges for assisted searches in line with Environmental Information Regulations.

a. Alternative options considered / risk management

Cabinet could agree to the removal of the £22 charge and not apply charges for assisted searches through the Environmental Information Regulations 2004.

This would mean all costs would need to be supported by the general fund. This is not recommended.

Comments of Policy Overview Committee

None at this stage

3. Supporting Information

The Local Land Charges (Amendment) Rules 2010 were made on 12th July 2010 and came into force on 17th August 2010. These new rules remove the statutory £22 charge for a Personal Search of the Local Land Charge Register and were effective from 17th August 2010.

The memorandum to the Statutory Instrument also states that a Personal Search of the Local Land Charges Register should be free in accordance with the Environmental Information Regulations 2004.

Department for Environment, Food and Rural Affairs (DEFRA) wrote to all Local Authority Chief Executives on 27th July 2010 advising of the change to legislation and also advising that the £22 charge should be removed with immediate effect. The letter also indicated that refunds may be due going back to January 2005 when the Environmental Information Regulations came into effect. This matter is referred to in the regular budget monitoring reports to Cabinet.

The Environmental Information Regulations 2004 give a right of inspection, free of charge, of the Local Land Charges Register and all other environmental information held by the authority. Charges can be applied for an assisted search. This is where officer's expert advice is sought or the information is to be sent by post or electronically.

4. Financial Implications

Property search fees are reviewed annually and agreed by Cabinet each February for commencement from 1st April. For 2010/11, Cabinet agreed to a significant reduction in property search fees, setting official search fees on a cost recovery basis, in order to provide good value for existing and prospective residents and to be competitive and attempt to regain market share. The Cabinet also agreed to set personal search fees at their statutory level of £22.

The suspension of HIP's and the revocation of the statutory £22 charge for personal searches will almost certainly impact on the ability of the Local Land Charges Service to achieve its budgeted fee income for 2010/11. The revocation of the statutory £22 could cost the Council around £85,000 in lost income. In addition there may be a requirement to make refunds in respect of personal search fees as far back as 2005.

Whilst income in the first half of the year has been encouraging a further impact of these recent changes could be a further swing of market share to the private sector if they are able to reduce their fees still further by passing on the £22 fee saving to their clients. It is currently estimated that there could be a demand for the assisted searches at a level of at least half of the activity levels of the personal searches. This would generate income of £41,000.

This would leave a forecast budget pressure on Local Land Charges for 2010/11 of £44,000, however the service will look at what action it can take to mitigate this pressure, for example by marketing its official property search products. The estimated pressure for 2011/12 is £145,000. If the activity levels are sustained, then the income from assisted searches should reduce the pressure to £65k.

EFFECT ON RESIDENTS, SERVICE USERS & COMMUNITIES

5. What will be the effect of the recommendations?

There is minimal impact to residents as this is already a chargeable service.

CORPORATE IMPLICATIONS

6. Corporate Finance

Corporate Finance has reviewed the report and confirms their agreement to the financial implications as stated.

7. Legal

The Local Land Charges (Amendment) Rules (the Rules) 2010 were made on 12th July 2010 and came into force on 17th August 2010. The amendment removes the statutory charge of £22 for a Personal Search of the Local Land Charges Register. In any event, the Environmental Information Regulations 2004 (EIR) provides that access to environmental information must be made available free of charge.

Guidance issued by the Information Commissioner's Office (ICO) in July 2009 concluded that the majority of information contained in property records held by local authorities was likely to fall within the category of environmental information as defined by the EIR. Therefore on this basis the Ministry of Justice (MOJ) have recently concluded that the same principles should apply to information on the local land charges register, hence the introduction of the amendment to the Rules.

Ministry Of Justice and Department for Environment, Food and Rural Affairs have also advised that local authorities should stop charging with immediate effect. The Local Government Association and Local Land Charges Institute have endorsed this approach.

8. Corporate Landlord

None.

9. BACKGROUND PAPERS

1. Statutory Instrument 2008 No. 3248 HOUSING ENGLAND The Local Authorities (England) (Charges for Property Searches) Regulations 2008.
2. The Local Land Charges (Amendment) Rules 2010
3. DEFRA letter to Chief Executives dated 27th July 2010

STATUTORY INSTRUMENTS

2010 No. 1812

LAND CHARGES, ENGLAND

The Local Land Charges (Amendment) Rules 2010

*Made ---12th July 2010**Laid before Parliament**27th July 2010**Coming into force in accordance with rule 1*

The Lord Chancellor, in exercise of the power conferred by section 14 of the Local Land Charges Act 1975(a) and with the concurrence of the Treasury, makes the following Rules:

Citation and commencement

1. These Rules may be cited as the Local Land Charges (Amendment) Rules 2010 and come into force 21 days after the date they are laid before Parliament.

Amendment to the Local Land Charges Rules 1977

2. In Schedule 3 (fees) to the Local Land Charges Rules 1977(b), item 5 (personal search in the whole or in part of the register) is omitted.

Signed on the authority of the Lord Chancellor

J Djanogly Parliamentary Under Secretary of State 8th July 2010 Ministry of Justice

(a) 1975, c.76. Section 14 was amended by section 158 of the Local Government and Housing Act 1989 (c.42) and by section 15(1) of, and paragraphs 82 and 85(1) of Part 1 of Schedule 4 to, the Constitutional Reform Act 2005 (c.4).

(b) S.I. 1977/985. Schedule 3 was substituted in its entirety by SI 2003/2502, and item 5 of Schedule 3 was amended by SI 2009/2494.

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EXPLANATORY NOTE

(This note is not part of the Rules)

These Rules amend the Local Land Charges Rules 1977 (SI 1977/985) by removing from Schedule 3 (fees) the whole of the entry for item 5 (personal search in the whole or in part of the register in respect of one parcel of land or, where the search extends to more than one parcel, those parcels). The fee is incompatible with the Environmental Information Regulations 2004(c) which implement Council Directive 2003/4/EC(d) on public access to environmental information.

(c) S.I. 2004/3391.

(d) O.J. No L 41, 14.2.2003, p 26.

Proposed Cost Recovery Fees for Assisted Searches

Description of Charges	Charges (£)
Assisted Search LLC Register Only	22
Assisted Search LLC Register Only (additional parcels of land (each))	1
Assisted Common Land Search	15
Assisted Compiling CON29R	32
Assisted Compiling CON29O	18.50

Charges have been calculated on a cost recovery basis. This includes administrative, database costs, maintenance costs, postal and electronic delivery costs.

LLC1 - is information kept on the council Statutory register which includes Planning Application, Tree Preservation Orders, Planning Enforcement Notices, Planning Articles, Conservation Areas, Listed Buildings, Section 106, Part 2 Recovering Money public Health Notices, Pest Control, Highways Act 1980, Light obstruction notice, Council House Sales etc, Housing Grants Approval and Grants paid etc.

CON29R – Required questions which have been determined by the Law Society which include: Decisions and Pending Applications, Planning Designations and Proposals, Roads, Land Required for Public Purposes, Land to be Acquired for Road Works, Drainage agreements and consents, Nearby Road Schemes, Nearby Railway Schemes, Traffic Schemes, Outstanding Notices, Contravention of Building Regulations, Notices, Orders, Directions and Proceedings under Planning Acts, Conservation Areas, Compulsory Purchase, Contaminated Land and Radon Gas.

CON29O – Optional questions which have been determined by the Law Society which include: Road Proposals By Private Bodies, Public Footpaths or Byways, Advertisements (Entries in the register), Completion Notices (Planning & Building Control), Parks and Countryside (areas of outstanding natural beauty), Pipelines, Houses in Multiple Occupation, Noise Abatement, Urban Development Areas, Enterprise Zones, Inner Urban Improvement Areas, Simplified Planning Zones, Land Maintenance Notices, Mineral Consultation Areas, Hazardous Substance Consents, Environmental and Pollution Notices, Food Safety Notices, Hedgerow Notices, Common Land, Town and Village Greens.