

Report of: Land and Property Search Manager

Report to: Chief Officer Elections and Regulatory

Date: 17 March 2021

Subject: Fees for provision of Land and Property Search Services 2021/22

Are specific electoral Wards affected? If relevant, name(s) of Ward(s):	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Are there implications for equality and diversity and cohesion and integration?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Is the decision eligible for Call-In?	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No
Does the report contain confidential or exempt information? If relevant, Access to Information Procedure Rule number: Appendix number:	<input type="checkbox"/> Yes	<input checked="" type="checkbox"/> No

Summary of main issues

1. Owing to the impact of the Coronavirus epidemic on the national and local economy, the service proposes to carry forward its current charges (2020-21) into the new financial year (2021-22).
2. This report seeks approval to make no changes to the Council's standard charges for official searches of the Local Land Charges Register.
3. This report seeks approval to make no changes to the Council's standard charges for replies to Enquires of the Local Authority (Con29R and O Forms).
4. This report seeks approval to make no changes to the Council's expedited charges for replies to searches of the Local Land Charges Register and Enquires of the Local Authority (Con29R and O Forms).
5. This report seeks approval to recover VAT in respect of the Enquires of the Local Authority (Con29R and O Forms); and in relation to expedited search fees.

Recommendations

The Chief Officer Elections & Regulatory is requested:

- to approve the retention of the current charges for official searches of the local land charges register, CON29 enquiries and expedited fees as set out in Appendix 1.

- to approve the estimates of total costs and estimates of numbers of requests, the basis for those estimates, and the amount of the unit charges proposed for the next financial year, as set out in Appendix 2.
- to approve the collection of VAT in respect of the Con29 form and the expedited fees.

1 Purpose of this report

- 1.1 To comply with legislative requirements in relation to official searches of the local land charges register.
- 1.2 To comply with legislative requirements in relation to the provision of CON29R information.
- 1.3 To comply with legislative requirements in relation to the provision of CON29O information.
- 1.4 To comply with instructions from Corporate Taxation Team [after considering HMRC ruling].

2 Background Information

- 2.1 This report relates to the fees charged in respect of property information which the Council holds. There are two ways of obtaining property search information from the Council. The Council can be asked to make its own search, an official search, or a search can be made by a buyer, their advisers or a property search company (PSC). This is known as a personal search.
- 2.2 There are two components to a property search. A search of the Local Land Charges register (LLC1), and additional information derived from a set of standard local enquiries contained in Form CON29R.
- 2.3 Under the Local Land Charges Act 1975, the Council is obliged to maintain a local land charges register for its area. The register contains details of charges on a property which have been registered and are enforceable, for example planning enforcement notices, financial charges, granted planning consents (with conditions), and conservation areas. On payment of a fee, a copy of all of the registered charges relating to a specific property can be requested, by way of an official search.
- 2.4 The CON29R is a non-statutory form of enquiries which was developed by the LGA and the Law Society. It broadly covers three categories of information: -
 - Information contained in a public register (other than the local land charges register);
 - Information where there is a specific statutory entitlement but no requirement to keep a register; and
 - Information to which there is no specific statutory entitlement.
- 2.5 This information can be requested via an official search undertaken by the Council, or by a personal search carried out by the buyer or a PSC.
- 2.6 Authorities are required to set their fees for an official search (LLC1 and Con29R) in accordance with the provisions of the Local Authorities (England) (Charges for Property Searches) Regulations 2008.
- 2.7 The Council is required by the 2008 Regulations to publish a statement during each financial year setting out the estimates of total costs and estimates of

numbers of requests in respect of unit charges for granting access to property records, the basis for those estimates, and the amount of the unit charge it proposes for the following financial year.

- 2.8 The register of local land charges is managed and maintained centrally by Elections and Regulatory Services, and therefore most of the costs attributable to official searches of the register pertain to the Local Land Charges section.
- 2.9 However, in relation to the CON29 enquiries, a number of other services provide the relevant information (e.g Planning Services, Public Rights of Way) which is then compiled centrally by the Local Land Charges section.

3 Main issues

- 3.1 The majority of searches carried out in Leeds (as part of the conveyancing process) are 'official searches'. The proportion of official searches as against personal searches has changed from approximately 33%:67% (2007) to 60%:40% (2018). This may be attributable at least in part, to the reduction of search fees from £120.00 to £56.50 in 2015, following the introduction of the 2008 Regulations.
- 3.2 Our relatively low search fees, and the fact that the Council provides high quality search information in an extremely short time scale (the average for 2020/21 is 2.5 working days) should mean that if search fees remain close to the existing levels, these proportions are unlikely to change.
- 3.3 In relation to charges for official CON29R searches, the Financial Summary in Appendix 2 sets out the aggregate costs to be taken into account. The Summary also includes the projected number of official searches for the forthcoming financial year, and the proposed unit charge.
- 3.4 The Con29 form (R and O) and Con29 Parcel fees became subject to VAT from 01 January 2017.
- 3.5 The 2008 Regulations define "costs" as "any costs to the local authority (including related salary costs and the costs of the creation and maintenance of records) reasonably incurred". In relation to charging a "reasonable amount" under the Environmental Information Regulations it is not proposed to pass on costs in relation to "free statutory information" as defined in the 2008 Regulations.
- 3.6 The service does not anticipate further costs during 2021-22. It is impossible at present to predict what housing market activity will be.
- 3.7 For these last two reasons, we have no basis for changing either the fees or the calculations on which they are based.

4 Corporate Considerations

- 4.1 The decisions recommended in this report will qualify as significant operational decisions, as it is proposed to alter the standard charge that the Council makes for the full official search.

4.2 It is considered these decisions will not qualify as “key” or “major” decisions, as the Council will not thereby incur expenditure or make savings over the respective financial thresholds.

5 Consultation and Engagement

5.1 The fees have been agreed with each client department/service area, namely: -

- Public Rights of Way;
- Finance officers

5.2 The methodology used is in compliance with the Local Authorities (England) (Charges for Property Searches) Regulations 2008.

5.3 The collection of VAT has been discussed with Sarah Bagley (Corporate Taxation Manager).

6 Equality and Diversity / Cohesion and Integration

6.1 An Equality, Diversity, Cohesion and Integration Impact Assessment has been completed. The recommendation has no impact on any of the groups outlined.

7 Council policies and City Priorities

7.1 The recommendations seek only to recover the costs actually attributable to the provision of the services outlined and as such will not have an adverse impact upon any council policy/city priorities.

7.2 In line with the Charging Regulations the fees fully cover the costs of providing the service and there is no subsidy paid towards providing the service from the council.

7.3 Consequently there is no requirement to undertake consideration of different schemes of charges for Leeds and non-Leeds residents in accordance with the findings of the Scrutiny Board review of Fees and Charges.

8 Resources and value for money

8.1 The recommendations seek only to recover the costs actually attributable to the provision of the services outlined. This ‘cost recovery’ model is set out in the Local Authorities (England) (Charges for Property Searches) Regulations 2008 which we must adhere to.

9 Legal Implications, Access to Information and Call In

9.1 In setting its charges for official searches, the Council must continue to have regard to both the 2008 Regulations, the Local Land Charges Act 1975, the Value Added Tax Act 1994 and also to the Environmental Information Regulations. As a significant operational decision the report is not subject to call in.

10 Risk Management

10.2 If the recommendations are not approved we risk being non-compliant with the 2008 Regulations and the Environmental Information Regulations.

11 Conclusions

11.1 It is concluded that the proposed charges for official searches are consistent with the provisions of the 2008 Regulations, the Local Land Charges Act 1975 and the Environmental Information Regulations.

12 Recommendations

The Chief Officer Elections & Regulatory is requested:

- to approve the retention of the current charges for official searches of the local land charges register, CON29 enquiries and expedited fees as set out in Appendix 1.
- to approve the estimates of total costs and estimates of numbers of requests, the basis for those estimates, and the amount of the unit charges proposed for the next financial year, as set out in Appendix 2.
- to approve the collection of VAT in respect of the Con29 form and the expedited fees.

13 Background documents¹

13.1 None.

¹ The background documents listed in this section are available for inspection on request for a period of four years following the date of the relevant meeting. Accordingly this list does not include documents containing exempt or confidential information, or any published works. Requests to inspect any background documents should be submitted to the report author.