

Land and Property Search Service fees for 2023-24

Date: 1st March 2023

Report of: Land and Property Search Manager

Report to: Chief Officer, Elections and Regulatory Services

Will the decision be open for call in? Yes No

Does the report contain confidential or exempt information? Yes No

Brief summary

This report seeks approval to changes to the Land and Property Search Services fees for the financial year 2023-24.

This report seeks approval to publish the new fees on the council web site.

This report seeks approval for staff to use the new fees when generating invoices for users of the official search service.

Recommendations

- a) To approve the revised charges for official searches of the Local Land Charges Register (form LLC1), Enquiries of the Local Authority (form Con29 Standard) and all other fees for services provided, as set out in Appendix 1.
- b) To approve the estimates for total costs and estimates of numbers of requests, the basis for those estimates, and the amount of unit charges proposed for the financial year, as set out in Appendix 2.

What is this report about?

- 1 To comply with the legislative requirements in relation to official searches of the Local Land Charges Register, the Enquiries of the Local Authority (Con29).

Background Information

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.

There are two components to a property search. A search of the Local Land Charges register (Form LLC1), and additional information derived from the Enquiries of the Local Authority (Form Con29).

Under the Local Land Charges Act 1975 (amended by the Infrastructure Act 2015), the Council is obliged to maintain a local land charge 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 the registered charges relating to a specific property can be requested, by way of an official search.

The CON29 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.

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.

Authorities are required to set their fees for an official search (LLC1 and Con29) in accordance with the provisions of the Local Authorities (England) (Charges for Property Searches) Regulations 2008.

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.

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 Land and Property Search Service.

However, in relation to the CON29 enquiries, several other services provide the relevant information (e.g Planning Services, Public Rights of Way) which is then compiled centrally by the Land and Property Search Service.

Main issues

The service operates a ring-fenced fees budget and when setting fees only attributable costs [as determined by the 2008 Regulations] can be recovered. The estimated costs for 2324 have been discussed with Finance, and appendices 1 and 2 detail these.

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.

The service must recover a balanced budget i.e., income from fees=total costs of service provision, over a rolling 3-year period.

The housing market in England and Wales has suffered considerably in the final half of the current financial year. At present, assessments from the Bank of England, Council of Mortgage Lenders, and leading banks, seem to suggest the next financial year will see a continuation of subdued activity. Consequently, we feel that the estimates used for 23-24 (7,000) are reasonable and justifiable.

The service is preparing to transfer the Local Land Charges Register to HM Land Registry. It is very possible that this will be completed by the end of March 24. We therefore feel it is reasonable to ensure we recoup all associated costs during 2324.

The proposed fees will recover the cost of providing the service over the financial year.

What impact will this proposal have?

2 The fees are applicable to all users of the service and no exemptions apply.

How does this proposal impact the three pillars of the Best City Ambition?

Health and Wellbeing

Inclusive Growth

Zero Carbon

3 The services provided are an essential element of the conveyancing process.

What consultation and engagement has taken place?

Wards affected:

Have ward members been consulted?

Yes

No

4 The service has consulted with Finance Officers and the Public Rights of Way Manager.

What are the resource implications?

5 None

What are the key risks and how are they being managed?

6 *Failure to recover costs*

The service will roll over any deficit into the financial year 2425 i.e., fees will rise

Over recovery of costs

The service will roll over any surplus into the financial year 2425 i.e., fees will be reduced

What are the legal implications?

- 7 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 to the Environmental Information Regulations.

Options, timescales and measuring success

What other options were considered?

- 8 Legislative requirement to set fees each year in accordance with legislation.

How will success be measured?

- 9 New fees implemented and published with effect from 1st April 2023

What is the timetable and who will be responsible for implementation?

- 10 The Land and Property Searches Manager will ensure:

- New fees to be published before the end of March 2023
- all regular users of the service will be notified by email.

Appendices

- Appendix 1 – schedule of fees for 2023-24
- Appendix 2 – cost breakdown

Background papers

- None