

RECORD OF DECISION MADE UNDER DELEGATED AUTHORITY

*PART 1 – PUBLIC DOCUMENT

Any interest to declare/ or conflict and any dispensation granted [*if applicable*]

SERVICE DIRECTORATE: Customers

1. **DECISION TAKEN**

- 1.1 To amend the fees of Local Land Charges to reflect the current cost of providing the service, as detailed in section 9.

2. **DECISION TAKER**

- 2.1 Jo Dufficy, Service Director - Customers

3. **DATE DECISION TAKEN:**

- 3.1 29 January 2024

4. **REASON FOR DECISION**

- 4.1 The Local Authorities (England) (Charges for Property Searches) Regulations 2008 make provision for authorising local authorities in England and Wales to set their Local Land Charges fees based on full cost recovery. The principles of the regulations require authorities to ensure the price charged is an accurate reflection of the costs of carrying out the Local Land Charge function and not for creating surplus. The 'Cost of the Service' should be the total cost of providing the service which will include the direct costs of the Land Charges function and will also include indirect costs such as contributions to central and overhead costs.
- 4.2 The Regulations state that the cost of the local authority of granting access to records must be calculated by dividing a reasonable estimate of the total costs by a reasonable estimate of the number of requests for access likely to be received. A local authority must take all reasonable steps to ensure that over a period of any three consecutive years the total income does not exceed the total costs for granting access to property records. Where a local authority makes an overestimate or underestimate of the unit charge for the financial year, it must take this into account in determining the unit charge for the following financial year.
- 4.3 Every local authority in England and Wales, with the exception of county councils, is required to hold a local land charge register that records obligations affecting properties within their administrative area. Under the Infrastructure Act 2015 responsibility for the 331 registers was transferred to HM Land Registry in a phased approach.
- 4.4 In December 2021 HMLR wrote to all local authorities to confirm which migration year they had been allocated to, based on a regional/cluster approach. Our migration year was confirmed for 23/24. Following a lengthy migration project, the Local Land Charges Register (LLC1) transfer to HMLR completed on 22nd Jan 24.

4.5 Although the LLC1 register has transferred to HMLR, NHDC will continue to carry out Con 29 searches.

5. ALTERNATIVE OPTIONS CONSIDERED

5.1 The alternative option considered was to increase the fees from the go-live date of Jan 2024. It was decided however to use some of the transition payment from HMLR to offset the estimated £8.5k reduction in income and delay the increase of fees until April 24.

5.2 The new fee structure from April 24 reflects the increase in fees charged by outsourcing of the Building Control Con 29 questions to Hertfordshire Building Control, as well as fee increases from Hertfordshire County Council and the revisions following the transfer of the register to HMLR.

6. CONSULTATION

6.1 The Executive Member with responsibility for Local Land Charges, Cllr Elizabeth Dennis has been consulted and supports the changes.

7. FORWARD PLAN

7.1 This decision is not a key Executive decision and has therefore not been referred to in the Forward Plan.

8. BACKGROUND/ RELEVANT CONSIDERATIONS

8.1 The Local Land Charges register transferred to HMLR on the 22nd of Jan 24 as part of a planned phased migration of all 331 registers.

8.2 The LLC1 provides information in relation to restrictions that might affect what can be done with the property. It provides information about Financial Charges registered against the property as well as things such as planning agreements, tree preservation orders.

The LLC1 search provides applicants with details of entries on the register. In the majority of cases the customer is the solicitor providing information to the house buyer as part of the conveying process. It will still be the responsibility of the local authority to maintain the register, however from Jan 24 any requests to search the register will be made directly to HMLR.

8.2 The Local Land Charges Service will continue to offer the Con 29 which provides valuable information to both the solicitor carrying out the conveyancing and to the house buyer. Local land and other related searches are an essential part of the property conveyancing process. Searches reveal information about a property or piece of land including planning permissions or restrictions, road adoptions, building control approvals and environmental issues. The purchasers' solicitor/conveyancer uses the information provided to ensure that the purchaser has the right to live or use the property (or land) as intended and is aware of any restrictions that would affect their enjoyment of the same. There is a standard list of questions relating to searches which are listed on the Con 29 forms. Whilst the Council will no longer be entitled to charge for LLC1 searches of the register, the Con 29 will continue to be offered and charged for.

8.3 The fees for Local Land Charges searches were last reviewed in April 2023. The transfer of the LLC1 to HMLR means a reduction in income and therefore the cost of the Con 29 will need to increase to enable the council to recover the costs of the service.

- 8.4 Although the register has migrated to HMLR it is the statutory function of NHC to maintain and update the register. Maintaining the Local Land Charges register will involve the staff continuing to register the various charges and agreements, for example the planning agreements and disability grants. HMLR will refer any queries back to the Local Land Charges team who will be required to investigate and deal with any queries raised.
- 8.5 Resources within the team remain unchanged because we will continue to compile the Con 29. Currently personal searches are automated, and therefore not time consuming, because of the existing automation in this process there will not be any capacity released within the team. However, we will continue to monitor this.
- 8.6 The LLC1 searches account for 25.2% (£27k) of the cost of the service. We currently do not charge for Personal Searches which account for 13.6% (£15k) of the cost of the service. As there is no change to the cost of providing the Residential and Commercial searches after ceasing the LLC1 and Personal Searches, then the current cost of providing these searches will need to be absorbed by the Con 29 and Optional searches.
- 8.7 The revised scale of fees is detailed in Table 1 which compares these against the current fee scale.

Table 1 – Scale of Fees

| | Current Fee (exc VAT) | Revised Fee (exc VAT) | Increase (exc VAT) | Percentage increase |
|--------------------|-----------------------|-----------------------|--------------------|---------------------|
| CON29 Residential | £90 | £118 | £28 | 31.1% |
| CON29 Commercial | £101 | £133 | £32 | 31.7% |
| Optional Enquiries | £9.50 | £13.00 | £3.50 | 36.84% |
| Question 22 | £29.70 | £39.00 | £9.30 | 31.3% |

- 8.8 These fees have been based on the estimated 2024/25 budget figures, so reflects pay inflation, and HCC and HBC Inflationary increases. Costs have been reviewed and some amendments have been made to the Idox Support and Maintenance costs and the overhead rate previously used.
- 8.9 Although the percentage increase fees appear high, it needs to be noted that the increase when expressed in £'s the increase is not as significant. The Con 29 provides valuable information to the solicitor and homebuyer and when compared to the cost of purchasing a property, stamp duty, conveyancing fees etc.
- 8.10 Search numbers are based on an average of the previous two years. Search numbers in 2023/24 so far have been lower than normal due to interest rate increases and the overall uncertainty in the market, in 2024/25 we expect the search numbers to increase. Therefore, when calculating estimated 2024/25 search numbers 2021/22 search numbers were used as they are reflective of a stronger market situation, and it is expected that search numbers will increase during 24/25 as mortgage rates reduce. The average search numbers for 24/5 are residential 1197, Commercial 191, Optional Enquiries 77 and Question 22 241.

Table 2 – Number of Searches

| | 2020/21 | 2021/22 | 2022/23 | Estimated 2023/24 |
|---|-------------|-------------|-------------|-------------------|
| LLC1 (Local Land Charges Register) only | 7 | 1 | 2 | 0 |
| Residential Properties (LLC1 & CON 29) | 1413 | 1392 | 994 | 1002 |
| Commercial (Land or Property) (LLC1 & CON29) | 157 | 184 | 188 | 157 |
| CON29 Optional Questions including question 22 | 294 | 358 | 324 | 282 |
| Total number of searches including optional questions | 1871 | 1933 | 1508 | 1441 |
| Personal Search (enhanced detailed copy of the Local Land Charges Register) | 1830 | 1793 | 1664 | 1541 |

*Personal Search – no charge

8.11 Following discussions with the group accountant and MSU manager it is proposed that the transition payment is used to offset the shortfall income from the go-live date to 31st March 2024. From April 2024 the fees will be increased to reflect the additional costs in supplying the Con 29

8.12 It is proposed that an additional fees review is undertaken in September 2024. We can then monitor the impact on the new service, and should it result in less staff time the fees can be amended to reflect the actual cost.

9. LEGAL IMPLICATIONS

9.1. The setting of Land Charges Fees is delegated to the Service Director – Customers in accordance with Section 14.6.6 (b) (vi) (b) of the Councils Constitution.

9.2. There is a statutory requirement for the Local Authority to maintain the Local Land Charges Register under the Local Land Charges Act 1975.

9.3. There is a statutory requirement for the Local Authority to maintain other public registers and allow access to members of the public. The rules for access vary depending on the nature of the information and the format in which it is held.

10. FINANCIAL IMPLICATIONS

10.1. The calculation of the charges should ensure that the full cost of providing the service is covered. There is an element of uncertainty when calculating these costs as the volume of predicted searches is an estimate based on previous years data and demand may fluctuate. If search numbers are higher than assumed, then a surplus will be generated and if lower then there will be an impact on the Councils General Fund. There will not be a loss to our income from April 24 as a result of HMLR undertaking the LLC1 searches from January 24 due to the Con 29 price increasing. There will be a further review of fees in September 2024.

10.2. The Local Land Charges team has worked with the Finance Team to agree the revised fees.

10.3. HMLR has allocated funding totalling £77k to the Council to support the migration project which has spanned two years, some of this has been used on staffing and consultancy support. £8.5k will be used to offset the loss of income until the new financial year.

11. RISK IMPLICATIONS

11.1 The risk to the Land Charges service and fee income is monitored and reported through Ideagen.

12. EQUALITIES IMPLICATIONS

12.1 In line with the Public Sector Equality Duty, public bodies must, in the exercise of their functions, give due regard to the need to eliminate discrimination, harassment, victimisation, to advance equality of opportunity and foster good relations between those who share a protected characteristic and those who do not.

12.2 This universal service is used by those who have a specific need to access property related information when undergoing a property transaction and residents viewing planning/highways information. The Local Land Charges procedure is a single, consistently applied statutory process and it is applicable to all groups equally.

13. SOCIAL VALUE IMPLICATIONS

13.1 The Social Value Act and “go local” policy do not apply to this decision.

14. ENVIRONMENTAL IMPLICATIONS

14.1. There are no known Environmental impacts or requirements that apply to this report.

15. HUMAN RESOURCE IMPLICATIONS

15.1 There are no human resource implications arising from this report.

16. BACKGROUND PAPERS

16.1 None.

17. APPENDICES

17.1 None

NOTIFICATION DATE 02 February 2024



Signature of Executive Member Consulted

Date 30/01/2024

Signature of Decision Taker



Please Note: that *unless urgency provisions apply* EXECUTIVE decisions cannot be implemented until 5 clear working days have elapsed after the decision has been taken to allow for scrutiny call-in.

Call-in does not apply to NON-EXECUTIVE DECISIONS