

Item No.	Classification: Open	Date: 17 January 2014	Decision Taker: Cabinet member for Finance, Resources and Community safety
Report title:		Land Charges Fees for 2014/15	
Ward(s) or groups affected:		All	
From:		Strategic Director of Environment and Leisure	

RECOMMENDATION

1. That the cabinet member for finance, resources and community safety agrees that the Local Land Charges Official Search Fee be maintained at £215.00 with effect from 1 April 2014.

BACKGROUND INFORMATION

2. Personal searches are made by personal search agents who inspect data held by the local authority. This data is held by various council departments, and may be available either directly from these departments or on the website. The council maintains a schedule of registers and information relating to local authority personal search enquiries which provides details of where data can be found. The personal search agents inspect these records, and compile a personal search on the basis of their research.
3. Charges cannot be levied for providing access to data which falls within the classification of environmental information. This is in line with the EU Directive 2003/4/EC.
4. No charge for personal searches has been levied by the council since 1 August 2010.
5. Local Authority Official Searches are conducted by the legal profession on behalf of sellers and potential purchasers of the property or land within the Borough. The searches provide details of all subsisting registerable charges, such as financial, planning matters, Building Regulations and Light Obstruction that affect the property or land searched.
6. The fees charged for Local Authority searches are formed in two parts. The Official Certificate of Search (form LLC1) is currently £22.00 per search request. This is usually accompanied by a standard form of enquiries known as CON29R, the fee for which is £193.00. A total fee of £215.00 is currently charged for basic Official Searches.
7. The fees for Local Authority searches and associated matters are reviewed regularly. The current fee was implemented from April 2009. In April 2010 small changes were made to the breakdown of the fee, resulting in the total fee payable for a basic search remaining static for the fourth and the current (2013/2014) financial years.

8. Although the council has the power to set its own fees for Local Land Charges searches, the Government announced in 2008 that the fees should be set so that they cover the cost of the searches and that they should not be used by Councils as a source of income.
9. A comparison of Southwark's current fees for searches of the Local Land Charges Register with neighbouring and other Inner London Boroughs is shown at Appendix 1.

KEY ISSUES FOR CONSIDERATION

10. The policy of increasing access to searches by way of the internet and web has meant that Local Land Charges have been able to provide completed searches through the National Land Information Service (NLIS) initiative. NLIS provides customers with an online facility to request searches and reduces dependence on paper based office processes, ultimately resulting in increased efficiencies and accountability.
11. Approximately 70% of completed official searches are returned to customers by e-mail and other electronic portals.

Policy implications

12. The Medium Term Resources Strategy (MTRS) 2010/11 – 2013/14 and the corporate income policy require that:
 - Fees and Charge are increased to a level, at a minimum, that is equal to the most appropriate London average (e.g. inner London, family, groupings etc) except where this conflicts with council policy, would lead to adverse revenue implications or would impact adversely on vulnerable clients
 - Income generation is maximised by seeking income streams in line with council policies and priorities.
 - All fees and charges capped by statute are increased to the maximum level the cap allows.
13. Only where it can be demonstrated that adverse financial implications might arise or where increases are not considered realistic due to demand and local circumstances, can fees or charges increases be set at a lower level than that set by the MTFS.
14. The Council's constitution requires that all fees and charges increases are agreed by the relevant Cabinet Member through an Individual Decision Maker (IDM) report. An IDM report is also required where no increase or a reduction in fees and charges is proposed.
15. The Office of Fair Trading has stated that local authorities should not be advantaged by virtue of the fact that they hold data.¹

¹ 'To enable effective competition in compiling, unrefined property information must be made available on terms that do not discriminate against compilers on the basis of their status. In particular, LAs must offer PSCs and individuals access on comparable terms to those the LAs offer themselves when they compile local property searches.' Para 1.24 Property Searches: A market study, Office of Fair Trading September 2005

16. Applying the MTFs in this case, the Inner London average has already been achieved, which is considered to be the appropriate London average in this instance. It is therefore possible to comply with the MTFs without raising the fee for the next financial year.

Resource implications

17. The income budget for the service for the current financial year 2013/14 is £627k. The current proposed annual budget for the service in 2014/15 is £727k, an increase of £100k. Based on anticipated demand for the service, it is expected that budgeted income can be achieved without increasing the level of fees. Southwark Charges are at higher end of Inner London average (see Appendix 1) ensuring compliance with the Medium Term Financial Strategy objects.
18. These figures are based on a prudent projection of 3,446 searches per year, based on the average number of searches over the last five years. Although there are indications that the recovering housing market may lead to an increase in the number of searches, the government's welfare reforms are also creating risks to the recovery in the property market, particularly if the housing benefit changes feed through to pressure on the buy to let market.

Staffing implications

19. There are no staffing issues associated with this report.

Community impact statement

20. The impact of this decision is limited to those buying and selling property and it will affect all those within the borough who are buying and selling property. However the value of the fee is relatively small in relation to the cost of the property and the other costs involved in the property transaction. This decision has therefore been judged to have no or a very small impact on local people and communities.

Consultation

21. No consultation is required.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Director of Legal Services

22. The responsibility for setting of fees and charges under the council' constitution falls within the remit of the Cabinet Member for Finance, Resources & Community Safety.
23. The Environmental Information Regulations 2004 require local authorities to make environmental information available on request within 20 working days of the request. The Regulations define environmental information as including information held about land and as such matters dealt with by the Local Land Charges Register are classified as environmental information and governed by the EIR. The Regulations permit the local authority to charge a reasonable amount for requests made for environmental information.
24. The Local Land Charges Rules 1977 permit local authorities to charge a fee for

supplying an office copy of the register or any document, map or plan that had been filed by the authority in connection with a registration

25. Under section 13A of the Local Land Charges Act 1975 in specifying and setting a fee, the council is required to secure that the income from the provision of these services or description of services does not exceed the costs of their production and to have regard to any guidance issued by the Lord Chancellor. Section 14A of the Local Land Charges Act 1975 specifies that these fees cannot be used as a revenue raising device and therefore it is recommended that proposals for reducing the surplus will need to be considered in setting fees for financial year 2015/16.

Strategic Director of Finance and Corporate Services (E&L/13/045)

26. This report recommends that the cabinet member for finance, resources and community safety agrees that the Local Land Charges Official Search Fees be maintained at £215.00 with effect from 1 April 2014.
27. The strategic director of finance and corporate services notes the ability to amend the discretionary fees relating to local land charges searches within the context of only recovering costs. Appendix 1 indicates that Southwark’s costs and resultant fees are within an appropriate inner London average fees. Implementation of the recommendation will not incur any additional staffing costs as costs will be contained within existing budgeted revenue resources.

BACKGROUND DOCUMENTS

Background Papers	Held At	Contact
Schedule of registers and information relating to local authority personal search enquiries	http://www.southwark.gov.uk/info/200081/buying_a_home/782/local_land_charges	Paul Horsnell Land Charges 0207525 7686

APPENDICES

No.	Title
Appendix 1	Inner London Boroughs Search fees as at 18 September 2013

AUDIT TRAIL

Lead Officer	Deborah Collins, Strategic Director of Environment and Leisure	
Report Author	Paul Horsnell Land Charges Manager	
Version	Final	
Dated	29 October 2013	
Key Decision?	Yes	
CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER		
Officer Title	Comments Sought	Comments Included
Director of Legal Services	Yes	Yes
Strategic Director of Finance and Corporate Services	Yes	Yes
Cabinet Member	Yes	Yes
Date final report sent to Constitutional Team	17 January 2014	

APPENDIX 1

INNER LONDON BOROUGH'S LOCAL LAND CHARGES SEARCH FEES AS AT 18 SEPTEMBER 2013

NB. All Official Search fees effective from 1 April 2013, unless stated otherwise

Authority	LLC1	CON29R	Official Search fee (LLC1 & CON29R)
Camden	35.00	80.00	115.00
City of London	35.00	111.00	146.00
Greenwich	20.00	162.00	182.00
Hackney	43.00	87.00	130.00
Hammersmith & Fulham	6.00	258.00	264.00
Islington	20.00	90.00	110.00
Kensington & Chelsea	27.50	230.00	257.50
Lambeth	49.00	200.00	249.00
Lewisham	42.00	90.00	132.00
Southwark	22.00	193.00	215.00
Tower Hamlets	26.50	136.50	163.00
Wandsworth	22.00	61.00	83.00
Westminster	35.00	125.00	160.00