

OVERVIEW AND SCRUTINY COMMITTEE 10 MARCH 2014

SURVEYOR'S FEES

Prior to the confirmation of a Compulsory Purchase Order the Council has not liability to reimburse the fees incurred by a leaseholder in being represented by a surveyor. However to enable negotiations and to proceed and agreed purchases to be made prior to a compulsory purchase order even being made the Council undertakes to reimburse to leaseholders reasonable costs incurred in being represented by a surveyor. In order to mitigate this liability and to discourage unnecessarily protracted discussions a cap on the level of fee that is reimbursed is applied. This is applied to all regeneration schemes. In special circumstances where there is justification the cap will be increased by agreement and following consultation.

Many surveyors do not have a problem with this approach; a minority however seek to have their fees reimbursed on a hourly basis. Such a basis incentives them to maximise meetings, communications and to drag matters out as much as possible because the more time that is spent on matters the more money the surveyor in question will earn. This is contrary to the interests of the public purse. Indeed, The President of the Supreme Court, Lord Neuberger said at the Tom Sargant Memorial Lecture on 15 October 2013 in relation to legal fees and the costs of justice "where the service is legal advice or representation, there is a public interest in keeping the charge as low as possible. In this connection, the centrality of the hourly rate appears to me to be malign." He continued "it encourages inefficiency or worse: if a lawyer is short of work, it can be surprising how much time a particular task takes. And paying by reference to the hourly rate rewards the slow and the ignorant lawyer at the expense of the speedy and knowledgeable lawyer." It is contended this rationale should also apply to surveyors fees in land compensation matters that ultimately are met from the public purse.