

<b>Item No.</b>	<b>Classification:</b> Open	<b>Date:</b> 15 March 2012	<b>Decision Taker:</b> Cabinet member for Finance, Resources and Community safety
<b>Report title:</b>		Local Land Charges – Fees for Local Authority Searches	
<b>Ward(s) or groups affected:</b>		All	
<b>From:</b>		Strategic Director of Communities Law & Governance	

## RECOMMENDATIONS

1. That the cabinet member for finance, resources and community safety consider the contents of this report and the summary of the evidence provided as set out in Appendix 1.
2. That the cabinet member for finance, resources and community safety agree that the Local Land Charges Official Search Fees be maintained at £215.00 with effect from 1 April 2012.

## BACKGROUND INFORMATION

3. 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.
4. 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.
5. No charge for personal searches has been levied by the council since 1 August 2010.
6. 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.
7. 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.

8. 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 second and the current (2011/2012) financial years.
9. 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.
10. 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**

11. 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.
12. Approximately 70% of completed official searches are returned to customers by e-mail and other electronic portals.

### **Policy implications**

13. The MTFS states the following, with regard to the setting of discretionary fees:  
"To increase discretionary fees and charges 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."
14. The Office of Fair Trading has stated that local authorities should not be advantaged by virtue of the fact that they hold data.<sup>1</sup>
15. 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.

### **Community impact statement**

16. 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

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<sup>1</sup> '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

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**

17. No consultation is required.

## **SUPPLEMENTARY ADVICE FROM OTHER OFFICERS**

### **Strategic Director of Communities, Law & Governance**

18. The responsibility for setting of fees and charges under the council's constitution falls within the remit of the Cabinet Member for Finance, Resources & Community Safety.
19. The Environmental information Regulation 2004 S1 339/2004 (EIR) implemented an EU council directed 2003/4/EC on public access to environmental information and required local authorities to make environmental information available on request within 20 working days of the request. The Regulation defined environmental information as including matters affecting, water, air and land. As such, matters dealt with by the Local land Charges Register are classified as environmental information and governed by the EIR.
20. Regulation 8 of the EIR prohibits local authorities from charging for permitting access to any public register or list of environmental information held by them but allows a reasonable charge to be made when the information is provided to the applicant by the local authority.
21. The Local Land Charges Act 1975 empowered the Lord Chancellor to make rules for, regulating the personal searches and prescribing a fee for such searches. The Local Land Charges Rules 1977 permitted 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. Schedule 3 provided for the payment of a fee of £11 for a personal search of the Local Land Charges Register but with effect from 1 January 2010 this was increased to £22.00.
22. The Local Land Charges (Amendment) Rules 2010 revoked the fee for personal searches with the consequence that with effect from 17 August 2010 local authorities could no longer charge an applicant who requested a personal search of the Local land Charges Register.
23. In confirming that the raw data should be made available on the website or at sites described in the schedule of registers and information relating to local authority personal search enquiries, the Cabinet Member should consider that this would enable the council to comply with a requirement of the EIR for public authorities to progressively make environmental information available by electronic means and also save officer time.
24. Under section 13A of the Local land Charges Act 1975 the council is required to specify fees which are payable by persons for services relating to Local Land Charges that it provides. In specifying a fee, taking one financial year with another, 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.

25. The Constitutional Reform Act 2005, as amended by the Constitutional Reform Act 2005 (Supplementary Provisions) Order 2006 delegated the responsibility of fee setting (except Personal search fee) to local authorities provided that the fees were in line with guidance issued by the Lord Chancellor

**Finance Director**

26. The finance director notes the ability to amend the discretionary fees relating to local land charges searches within the context of only recovering costs. Maintaining the overall fee level for three years is a reflection of effective cost management.

27. Appendix 1 indicates that Southwark’s costs and resultant fees are within an appropriate London range.

**BACKGROUND DOCUMENTS**

Background Papers	Held At	Contact
Schedule of registers and information relating to local authority personal search enquiries	Website	Paul Horsnell

**APPENDICES**

No.	Title
Appendix 1	Inner London Boroughs Search fees as at 25 January 2012

**AUDIT TRAIL**

<b>Lead Officer</b>	Deborah Collins, Strategic Director of Communities, Law & Governance	
<b>Report Author</b>	Paul Horsnell Land Charges Manager	
<b>Version</b>	Final	
<b>Dated</b>	15 March 2012	
<b>Key Decision?</b>	Yes	
<b>CONSULTATION WITH OTHER OFFICERS / DIRECTORATES / CABINET MEMBER</b>		
<b>Officer Title</b>	<b>Comments Sought</b>	<b>Comments included</b>
Strategic Director of Communities, Law & Governance	Yes	Yes
Finance Director	Yes	Yes
<b>Cabinet Member</b>	Yes	Yes
<b>Date final report sent to Constitutional Team</b>	15 March 2012	

## APPENDIX 1

### INNER LONDON BOROUGH'S LOCAL LAND CHARGES SEARCH FEES AS AT 25 JANUARY 2012

NB. All Official Search fees effective from 1 April 2011, 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	30.00	35.00	65.00
<b>Southwark</b>	<b>22.00</b>	<b>193.00</b>	<b>215.00</b>
Tower Hamlets	25.00	130.00	155.00
Wandsworth	20.00	105.20	125.20
Westminster			160.00

INNER LONDON BOROUGH'S FEES 250112