

Item No.	Classification: Open	Date: 16 February 2015	Decision Taker: Cabinet Member for Finance, Strategy and Performance
Report title:		Local Land Charges Fees - for Local Authority Searches	
Ward(s) or groups affected:		All	
From:		Strategic Director of Environment and Leisure	

RECOMMENDATION

1. That the cabinet member for Finance, Strategy and Performance agrees that the Local Land Charges Official Search Fee be set at £177.00 with effect from 1 April 2015.

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 (2014/2015) 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. Guidance has been provided to local authorities when setting their fees for local land charges.¹ This guidance includes the following:
 - 12.1 'Fees must be set to cover but not exceed the costs.'²
 - 12.2 'Registering authorities should review fees annually to check whether they remain appropriate.'³
 - 12.3 'Each authority must ensure that taking one financial year with another the income from fees charged for each service does not exceed the costs of providing the service.'⁴
 - 12.4 'The cost of service ... should be the total cost of the provision of the service... This will include the direct costs of maintaining the local land charges register and its index and keeping them up to date. The cost will also generally include indirect costs, such as contributions to central and overhead costs, insurance, amortised costs, depreciation and cost of capital.'⁵
 - 12.5 'In costing services registering authorities will have to estimate demand for the services. They should use experience and information available from previous years in making these estimates. There are a variety of forecasting methods, but as a starting point registering authorities may wish to gather data from the past five years, if possible, and then calculate a moving average to estimate future demand.'⁶
 - 12.6 'The requirement to take 'one financial year with another' means that a

¹ Guidance for Registering Authorities on Setting Fees for Local Land Charges in England January 2007

² Ibid para 2.3

³ Ibid para 2.4

⁴ Ibid para 4.1

⁵ Ibid para 5.3

⁶ Ibid para 5.4

registering authority should take account of surpluses and deficits in the current and previous years in setting fee for the forthcoming year so that, over time, income does not exceed costs.⁷

12.7 ‘...registering authorities should be able to explain how the fees were calculated. It may be helpful for the published fees to be accompanied by an outline of the calculations used. The outline of the calculations used to reach the published fees should also be available on request.’⁸

13. 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.

14. The Office of Fair Trading has stated that local authorities should not be advantaged by virtue of the fact that they hold data.⁹

15. 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.¹⁰ Taking into account all the costs for the service over a three year period, the recommendation is that the fee be reduced.

Resource implications

16. The income budget for the service for the current financial year 2014/15 is £727k. Based on anticipated demand for the service, it is expected that budgeted income can be achieved with the proposed fee. Southwark Charges are at higher end of Inner London average (see Appendix 1).

17. The proposed fee is based on a prudent projection of 4,106 searches per year, based on the average number of searches over the last three years.

Staffing implications

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

Community impact statement

19. 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.

⁷ Ibid para 6.3 on page 9

⁸ Ibid para 7.4 on page 11

⁹ ‘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

¹⁰ Section 13A of the Local Land Charges Act 1975

Consultation

20. No consultation is required.

SUPPLEMENTARY ADVICE FROM OTHER OFFICERS

Director of Legal Services

21. 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.
22. Regulation 8 of the Local Authorities (England) (Charges for Property Searches) Regulations 2008 ("the 2008 Regulations") enables the council to charge a fee for responding to enquiries about a property, and while the council has discretion about the level of charges it must have regard to the cost to the council. Fees in this context relate to responding to "Official Searches", and not to "Personal Searches". Section 13A of the Local Land Charges Act 1975 requires that fees are set on a cost recovery basis, and requires the council to have regard to guidance issued by the Lord Chancellor, referred to in the body of the report.
23. 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
24. The Environmental Information Regulations 2004 ("EIR"), which derive from European legislation, also 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, much if not all of the information held in the Local Land Charges Register is likely to be environmental information and governed by the EIR. The charging regime set out in the 2008 Regulations is subject to the EIR, which permit the council to charge a *reasonable amount* for requests made for environmental information. The question of what is a "reasonable amount" in the context of responding to Local Land Charges enquiries, and the interrelationship between the charging regimes under the 2008 Regulations and the EIR, has been subject to litigation in the Information Tribunal, which has made a reference to the European Court of Justice to provide a ruling. This ruling is currently awaited, and not expected before 2015. The current position, confirmed by guidance provided by the Information Commissioner, remains that where responding to a request to carry out an "Official Search" goes beyond the duty placed on the council by the EIR to make environmental information available, the LA can set a fee in line with the 2008 Regulations.

Strategic Director of Finance and Corporate Services (F&CS14/022)

25. This report recommends that the Cabinet Member for Finance, Strategy and Performance agrees the proposed non-statutory fees and charges for 2015/16, with an implementation date of 1 April 2015.
26. The strategic director of finance and corporate services notes the resource implications contained within the report and the comparison of proposed council fees with the appropriate inner London average fees. It is noted that the impact of the proposed reduction in fees (in line with London Benchmark) is able to be contained within the existing income budget.

27. Savings that have been factored into future budgets and alternative savings would need to be identified should the recommendations not be accepted. Officer time to effect the recommendation 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	Website	Paul Horsnell

APPENDICES

No.	Title
Appendix 1	Inner London Boroughs Search fees as at 31 October 2014

AUDIT TRAIL

Lead Officer	Deborah Collins, Strategic Director of Environment and Leisure	
Report Author	Des Waters Head of Public Realm	
Version	Final	
Dated	26 January 2015	
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	26 February 2015	

APPENDIX 1

**INNER LONDON BOROUGH'S LOCAL LAND CHARGES SEARCH FEES
AS AT
31 OCTOBER 2014**

NB. All Official Search fees effective from 1 April 2014, 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	9.00	43.00	52.00
Hackney	0.00	87.00	87.00
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 (current)	22.00	193.00	215.00
Southwark (proposed)	11.00	166.00	177.00
Tower Hamlets	27.00	140.00	167.00
Wandsworth	18.00	53.00	67.00
Westminster	35.00	125.00	160.00
Inner London average (with current fees)	25	131	156