



OPEN REPORT
COMMUNITY AND ENVIRONMENT COMMITTEE

Community and Environment Committee – 23 March 2023

FEES AND CHARGES – LOCAL LAND CHARGES AND LEGAL SERVICES

Report of Director of Corporate and Customer Services

Report Author and Contact Details

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Wards Affected

District-wide

Report Summary

This report highlights the need to review the recently agreed Fees and Charges in respect of Local Land Charges in view of Derbyshire County Council's decision to increase fees for CON29 searches. It also seeks to confirm a fee that was not included in the report to the Governance and Resources Committee on 16 February 2023.

Recommendations

1. That the fees for the Local Land Charges Service in the 2023/24 financial year be confirmed as:

(a) Official Search Fee (LLC1 + Con29R)	£179.20
(b) LLC1	£32.00
(c) Con29R	£148.20
(d) Con 29O	£32.40
(per question and where information is to be provided by Derbyshire County Council)	
(e) Con 29O (per question)	£13.20
(f) Additional Parcel of Land	£13.80
(g) Written enquiries	
(solicitors own questions)	£15.00
(h) Personal Search of the Register	£0.00
(all inclusive of VAT)	

2. That the fee for the sale of Council Land, sale of Land by Tender and sale of Land by Auction levied by Legal Services in the 2023/24 financial year be confirmed as a maximum of 1.5% of the sale price (subject to minimum of £507.47)

List of Appendices

None

Background Papers

Report to Governance and Resources Committee (16 February 2023) – Fees and Charges for 2023/24

Consideration of report by Council or other committee

No

Council Approval Required

No

Exempt from Press or Public

No

Fees and Charges – Local Land Charges

1. Background

1.1 The Local Land Charges service provides searches and information to the conveyancing and property industry. These searches and information consist of:

- LLC1 – Search of the Local Land Charges Register
- CON29 – Enquiries of District Councils
- Personal Searches of the Local Land Charges register for which a fee cannot be charged
- Property information under the 2008 Regulations
- The inspection of property information under the Environmental Information Regulations (EIR) 2004.

1.2 Traditionally solicitors acting for the purchasers of properties have carried out CON29 and LLC1 searches. These searches can take the form of official local authority searches or personal searches which are carried out by private companies.

2. Key Issues

2.1 On 16 February 2023 the Governance and Resources Committee considered and approved a schedule of Fees and Charges to be levied by the authority in respect of a variety of functions and services. This schedule included the following provisions in respect of Local Land Charges in 2023/24:

Official Search Fee (LLC1 + Con29R)	£134.00
LLC1 only	£32.25
Con29R	£104.00
Con 29O (per question)	£13.20
Additional Parcel of Land	£13.75
Written enquiries (solicitors own questions)	£15.00
Personal Search of the Register	£0

2.2 On 21 February 2023 all district and borough councils in Derbyshire were notified by the County Council of a significant increase in charges that they would levy in 2023/24:

Con29 (Highways only) – increased from £30.80 to £76 (inclusive of VAT)
Con 29 (per question) – increased from £6.80 to £26 (inclusive of VAT)

In percentage terms, these increases are 146% and 282%.

2.3 Representations have been made to the County Council from officers at a number of district and boroughs across Derbyshire. A formal response has been provided which details the position of the County Council:

I understand the concerns you raise concerning the uplift in search fees and charges that Derbyshire County Council intends to apply from April 2023. It is regrettable that it was necessary for our search fees and charges to be

reviewed in a timescale that did not align with that of setting the budgets for your own Authority. Unfortunately this was unavoidable in this instance.

It is not disputed that the uplift represents a substantive increase over the existing fees for 2022-23. In response to your specific query, I have not been able to find a documented record of when Derbyshire County Council last increased its search fees. However, I understand that the search fees have not been significantly increased since circa 1991. Therefore, the charges have not kept pace with the Bank of England's Consumer Price Index.

I accept your comments concerning balancing the charges with the elasticity of demand, particularly given competition from private search companies. However, what individual companies charge is a commercial matter for those organisations concerned. The resulting overall cost would still appear to be relatively modest in relation to the information supplied and not be significantly in excess of what other authorities around the country charge, commercial competition notwithstanding.

Derbyshire County Council has received internal approval to apply the revised fees from April 2023. However, to ascertain if the uplift proves to be sustainable, going forwards, it is also proposed to monitor the situation in line with the points you have raised. I appreciate the difficulties this timescale may cause your Authority in seeking cabinet approval. In the meantime, I would suggest that any search enquiries concerning highways are rerouted directly to this authority.

- 2.4 The effect of the County Council's decision to increase their fees for 2023/24 is to potentially reduce the level of income that the District Council will achieve through its Local Land Charges service. The increases of 147% and 282% respectively will reduce the margin of income received and will materially impact on the budget that Members have recently set for the 2023/24 financial year. This report has been prepared to set out options for Members to consider in response to this change.
- 2.5 The report to the Governance and Resources Committee on 16 February 2023 set out a schedule of fees and charges in respect of legal services. With regard to fees and charges for the sales of Council Land, sales of Land by Tender and sales of Land by Auction the Council presently charges a maximum of 1.5% of the sale price (subject to minimum of £483.30). The report submitted in February 2023 did not detailed the minimum figure and so this report seeks to confirm the minimum figure as £507.47, which represents an increase of 5%.
- 2.6 In accordance with the provisions of the Constitution in respect of policy committees being empowered to discharge functions in respect of matters that come under the remit of either committee, this report has been submitted to ensure that Members can make a timely decision before the commencement of the new financial year in April 2023.

3. Options Considered and Recommended Proposal

- 3.1 Having assessed the situation, there are three options available to the District Council at the present time. The first of those options is to do nothing and keep fees and charges at the level set on 16 February 2023 whilst

continuing to offer the CON29 search enquiries in respect of highways. This is not recommended as the proportion of income that the Council will realise will be significantly reduced whilst still undertaking the same level of work.

- 3.2 In its response set out in paragraph 2.3 above, the County Council has suggested that district and borough councils should re-route search enquiries directly to the Highways Team at Derbyshire County Council. If this approach were adopted, the District Council would no longer undertake this part of the search and could choose to reduce the charges it levies accordingly. This option is not recommended.
- 3.3 It is the experience of officers that solicitors and others undertaking searches prefer a “one-stop” approach where all information is collated from a single point of contact through the District Council. This is not only efficient but also the most cost effective way of working when undertaking conveyancing. The overwhelming majority of search requests received by the District Council are submitted electronically. If a CON29 search was not offered by the authority, those solicitors may choose not use our services at all which would have a significant impact on the income generated through the Local Land Charges service. On this basis, the recommended option is to increase the fees and charges for Land Charges to reflect the percentage increase applied by Derbyshire County Council. The effect of pursuing this option would be to increase the fees as follows:

Official Search Fee (LLC1 + Con29R) - £179.20

Con29R - £148.20

Con 29O (per question where information is to be provided by Derbyshire County Council) - £32.40

Con29O (per question) - £13.20

4. Consultation

- 4.1 There has been no public consultation in the preparation of this report, but as referenced earlier, there has been ongoing dialogue between district and borough councils and Derbyshire County Council since the publication of the revised fees from the County Council.

5. Timetable for Implementation

- 5.1 The proposed fees are due to be implemented with effect from 1 April 2023, or as soon as practicable thereafter (e.g. from Monday 3 April 2023).

6. Policy Implications

- 6.1 The Council charges fees to cover the cost of some of the services that are provided to make progress in delivering its Corporate Priorities.

7. Financial and Resource Implications

- 7.1 The budget for 2023/24 for income from land charges search fees is £114,852.
- 7.2 The recommendations of this report seek to increase fees for land charges searches to pass on the uplift in Derbyshire County Council fees. This seeks

to recover the additional costs incurred by the Council. However, there is a risk that income might be reduced as the higher fees cause some customers to use other service providers or to go elsewhere. This financial risk is assessed as low to medium.

8. Procurement Implications

8.1 There are no procurement implications directly associated with this report.

9. Legal Advice and Implications

9.1 Councils are allowed by virtue of the Local Authorities (Charges for Land Searches) Regulations 1994 and by Section 13(A) of the Local Land Act 1975 to set fees for official enquiries concerning property transactions (CON29) and for official searches of the Local Land Charges Register (LLC1).

9.2 Councils are also allowed by the virtue of the 2008 Regulations to set fees for the provision of property information and must produce a statement each year on fee setting under the Regulations.

9.3 The legal risks associated with this report are assessed as low.

10. Equalities Implications

10.1 There are no equalities implications directly associated with this report.

11. Climate Change Implications

11.1 There are no climate change implications directly associated with this report.

11. Risk Management

11.1 There is a risk that the Council could lose business by being undercut by Personal Search Agents and requests to access information via the EIR. However, in assessing the options detailed earlier in this report, officers have had regard to the possibility of customer resistance to the revised fees. Therefore, this risk is assessed as low.

Report Authorisation

Approvals obtained from:-

	Named Officer	Date
Chief Executive	Paul Wilson	15/03/2023
Director of Resources/ S.151 Officer (or Financial Services Manager)	Karen Henriksen	09/03/2023
Monitoring Officer (or Legal Services Manager)	Kerry France	15/03/2023