

# TONBRIDGE & MALLING BOROUGH COUNCIL

## CABINET

01 April 2009

### Joint Report of the Central Services Director and Director of Finance

#### Part 1- Public

#### Executive Key Decisions

#### **1 REVIEW OF LOCAL LAND CHARGES SEARCH FEES**

##### **1.1 Introduction**

1.1.1 Further to a report to the meeting of the Finance and Property Advisory Board on 09 July 2008, this paper brings forward a number of proposals in respect of land charges fees. Members will recall that statutory guidance has been awaited. This has now been received and incorporated in these fee proposals.

##### **1.2 Proposed Charges**

1.2.1 The Statutory Instrument No. 3248, Local Authorities (England) (Charges for Property Searches) Regulations 2008 was published in December 2008 and enables local authorities to charge for their property search services – charging for access to property records or responding to official search requests. Supporting guidance was published on 22 January 2009.

1.2.2 For personal searches of the Land Charges Register, the fees are still fixed by Regulation at £11 each. However, it is understood that the fees will be reviewed during the coming year. The charging regulations still do not address the imbalance and the cost of personal searches continues to be funded from the Council's other income. For 2009/10 this cost is estimated to be approximately £54,000 based on current activity levels.

1.2.3 The table below shows the projected costs of providing the land charges service, together with potential income, as contained in the 2009/10 Budget. For comparative purposes, we have also shown the Revised Budget for 2008/09.

	<b>2008/09 Revised Estimate £</b>	<b>2009/10 Original Estimate £</b>
Employees - salaries	178,550	143,650
Supplies and Services:		
NLIS Transmission fee	19,600	41,600
Kent Highways	17,700	27,600
Ordnance Survey Licence fee	2,650	2,650
Insurance	6,700	6,600
Central, Departmental and Technical Support Services:		
Central Salaries and Administration	46,250	27,800
Information Technology Expenses	23,200	18,800
Departmental Administrative Expenses	76,400	73,100
Share of: Democratic Administration	43,750	33,700
Corporate Management	19,650	14,900
Non-Distributed Costs	54,300	34,800
Sub-total	<u>488,750</u>	<u>425,200</u>
Less income: Fees and charges	(237,600)	(481,950)
Deficit (surplus) for trading purposes	<u>251,150</u>	<u>(56,750)</u>

- 1.2.4 Members should be aware that the 2009/10 level of income shown in the table reflects what we would describe as “normal” activity. Clearly, the recession is impacting significantly on activity and the likelihood of this level of income actually being achieved in 2009/10 is minimal. The revised estimate for income in 2008/09 shows how significantly this activity has, thus far, been affected by the recession.

Members will recall that a corporate “economic downturn” adjustment was factored into the Budget for 2009/10 to allow for the impact of the recession. The Director of Finance will be monitoring this throughout the year and will, of course, keep members informed.

The reason for mentioning this here is to demonstrate to Members that this is a volatile area of activity where income can fall, or alternatively increase, quickly. Whilst the 2009/10 Estimate suggests there will be a surplus in this activity, in reality, the likelihood is that there will be a deficit – unless we move out of recession very quickly. This is an “aside” within the context of this report, but we felt it important to give Members the wider picture.

- 1.2.5 The charging methodology contained in the guidance has been adopted using data currently available in respect of staff time allocations and current trends for activity levels given the current economic climate.
- 1.2.6 This new charging framework has been introduced to attempt to ‘level the playing field’ by giving third parties access to data currently held by a local authority. This affords a number of options for those wishing to undertake searches, such as the ability to:

- Request a full search – combined official forms LLC1 and CON29R (Annex 1), where the data to answer the forms has been accessed, verified as applicable to the search area and produced in a tailored report. The search also carries the Council's full insurance cover.
- Access unrefined data which is not publicly available to answer those questions on form CON29R – the 'DIY' approach - viewing the data that Land Charges staff use to answer the search form (CON29R), but this will require staff supervision.
- Request the answers to the same questions as above which can be provided in the form of an added value tailored report which also carries the Council's full insurance cover.
- Access free of charge, information that is publicly available elsewhere.

1.2.7 Unrefined information is information that could be accessed by a third party, but they would need to do some work in order to use it. It can be held in paper format without any formal index or held electronically on a website. It also applies to anything which forms part of a public register eg the Planning Register, as a third party would still need to look at the planning history and decide which applications are applicable to that site.

1.2.8 Refined information is where the Local Authority uses the same information but has added some value to that information eg deciding whether it is applicable to a site and producing a tailored report.

1.2.9 In considering these proposed changes market considerations have been taken into account where permissible within the appropriate legislation. It is proposed that charges should be competitive where permissible.

1.2.10 On this basis, the following table shows the proposed fees for local land charges searches and enquiries proposed to be effective from 6 April 2009.

	Current Charge £	Proposed Charge £
LLC1 (the Official Certificate of Search and the search of the Land Charges Register).	35	35
Con29 R (the enquiries of Local Authority's form, comprising of a list of questions including matters relating to highways, building control, environmental health and housing).	135	135

Combined LLC1 & Con29R (full search on domestic property)	148	148
Commercial Search	299	299
Standard optional enquiry	15	15
Non-standard optional enquiry	18	18
Unrefined Con29 data for questions 3.1, 3.7,3.8,3.9,3.10,3.11 and 3.12. [This is a flat fee for all 7 questions]	N/a	5.50
Providing refined Con29 data for questions 3.1, 3.7,3.8,3.9,3.10,3.11 and 3.12 only.	N/a	49 or 8 per each question
Expedition charge	49	49

### 1.3 Legal Implications

1.3.1 These proposals meet the new requirements.

### 1.4 Financial and Value for Money Considerations

1.4.1 These fees have been calculated on the basis of data available at the time. The impact on income is difficult to assess until patterns of take up are established.

### 1.5 Risk Assessment

1.5.1 The proposed charges do not in themselves present a risk; Members will be aware of the current financial climate and slow down in the property market. This broader issue does present a risk to the income projections being achieved. This situation is being closely monitored by Management Team

### 1.6 Recommendations

1.6.1 It is RECOMMENDED to Cabinet that the charges set out at paragraph 1.2.9 above are adopted with effect from the 6 April 2009 and that these changes be reviewed on an annual basis.

Background papers:

contact: Janet Maxwell  
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Statutory Instrument No. 3248, The Local Authorities  
(England) (Charges for Property Searches)  
Regulations 2008

Communities and Local Government - Local Authority  
Property Search Services – Costing and  
Charging Guidance

Working papers

Sample CON29R form

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