

 Executive – 18 March 2008		Agenda Item No.
Title	Land Charges – fees for personal searches, and update	
For further information about this report please contact	Peter Oliver	
Service Area	Land Charges	
Wards of the District directly affected	None	
Is the report private and confidential and not for publication by virtue of a paragraph of schedule 12A of the Local Government Act 1972, following the Local Government (Access to Information) (Variation) Order 2006	No	
Date and meeting when issue was last considered and relevant minute number		
Background Papers		

Contrary to the policy framework:	No
Contrary to the budgetary framework:	No
Key Decision?	No
Included within the Forward Plan? (If yes include reference number)	Yes

Officer/Councillor Approval		
With regard to officer approval all reports <u>must</u> be approved by the report authors relevant director, Finance, Legal Services and the relevant Portfolio Holder(s).		
Officer Approval	Date	Name
Relevant Director	25.02.09	Mary Hawkins
Chief Executive	25.02.09	Chris Elliott
CMT	26.02.09	
Section 151 Officer	25.02.09	Mary Hawkins
Legal		Author
Finance	25.02.09	Mike Snow
Portfolio Holder(s)	03.03.09	Cllr. Bernard Kirton
Consultation Undertaken		
None		
Final Decision?		Yes
Suggested next steps (if not final decision please set out below)		

1. SUMMARY

- 1.1 This report advises Executive of the Regulations and Guidance issued by the government regarding revisions to the scheme for personal search companies and others to carry out personal searches and the fees to be charged for them. It also updates members on the present position with Land Charge Searches in the current housing market, and progress on the digitisation project

2. RECOMMENDATION

- 2.1 That the proposed level of fees for personal searches set out in appendix 1 (*to follow*) to this report be approved for implementation from 1 April 2009.
- 2.2 That the present position on Land Charges searches and the progress with the digitisation project be noted

3. REASONS FOR THE RECOMMENDATION

- 3.1 On 16 December 2008, the government made The Local Authorities (England) (Charges for Property Searches) Regulations 2008. These change the framework for personal searches of the land charges register and additional enquiries (CON29) by requiring local authorities to make all information required to answer the standard searches and additional enquiries available to personal searches and search companies. They also provide for authorities to set charges for providing the information and access to it on a cost recovery basis. From 6 April 2009, search companies will not be allowed to use indemnity insurance in lieu of information they have not been able to obtain, as all information should be available.
- 3.2 Although the regulations came into force on 23 December, a copy was not received until that day, and the guidance to accompany them was not received until 22 January. In particular, that guidance gives advice on how costs should be calculated for providing access to property information for those carrying out personal searches. The statutory fee for a personal search of the Land Charges Register is set by the Ministry of Justice. The current fee is £11, although there is talk of this being raised in the foreseeable future.
- 3.3 Under the new regime, authorities are required to calculate a fee for each question on the CON29 form where the information is not currently freely available (e.g. because it is on a statutory register, or because the authority makes it available on its website). An exercise was undertaken during February to calculate the amount of officer time spent compiling and maintaining the various "data sets". At the time of preparing this report, calculations are currently being carried out using that information, the cost of employing the officers, various fixed charges and an estimate of the number of searches to arrive at a cost for providing access to each question. These are the figures which will be shown in the appendix (which will be circulated as soon as it is available), and it is recommended that members approve these figures.
- 3.4 The council is required to break even on the recovery of the cost of providing access to the information required by personal searchers on a year by year basis. This means that this exercise will have to be repeated annually, with any surplus or shortfall on one year being carried forward to the calculation of charges for the following year.

4. **ALTERNATIVE OPTION CONSIDERED**

- 4.1 No alternative options have been considered, as this is a statutory requirement and failure to follow the regulations or guidance could result in a challenge to the council

5. **BUDGETARY FRAMEWORK**

- 5.1 At present, the only charge for anyone carrying out a personal search is the statutory £11 search fee. The new arrangements will significantly increase the cost for personal searchers, and the income for the council. For the purposes of calculating the fees, it has been assumed that in 2009/10 there will be 1,000 full searches and 2,000 personal searches, i.e. a similar trend to the current year. However, it is not really possible to predict the effect on the search market, as the increase in charges may result in fewer personal searches and more full searches.
- 5.1 On the basis of the assumption in paragraph 5.1, the income for 2009/10 would be £(figure to be supplied when appendix completed) against a budgeted income of £230,000. In the light of experience of the new search regime, it may be necessary to review the charges for full searches.

6. **POLICY FRAMEWORK**

- 6.1 There is no impact on the policy framework.

7. **BACKGROUND**

- 7.1 Local Land Charge Searches are undertaken either by the submission of a full search which is processed and responded to by Council (and County Council) staff, or by a personal search where the individual or a search company visits the council offices and is entitled to have access to the necessary information. The number of searches has fallen with the decline in the housing market, whilst there has been a marked shift from full searches to personal searches. This is demonstrated in the following table:

	2006/07	2007/08	2008/09 (10 months to Jan09)
Full searches	2832	2199	927
Personal searches	2038	2533	1804
Total	4870	4732	2731

This has caused the income budget for 2008/09 to be revised from £360,000 to £230,000.

- 7.2 The digitisation project to enable all searches and additional enquiries to be answered electronically continues. All data which is map based has now been entered onto individual layers of the council's GIS mapping system, and the final phase of the work – to capture the card based local land charges register – is commencing. An initial pilot of a small proportion of the register is being undertaken to assess the resource implications of capturing the whole register. It is hoped to be in a position to update members orally on this at the meeting.