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Date: *25 March 2009*

NOTIFICATION OF PORTFOLIO HOLDER DECISION

On 25 March 2009, Cllr C R Treleaven, the Planning and Transportation Portfolio Holder and Cllr C A Wise, the Finance and Efficiency Portfolio Holder, made the following decision. Any member of the Council, who is not a Portfolio Holder, who considers that this decision should be reviewed should give notice to the Monitoring Officer (Grainne O'Rourke) (in writing or by e-mail) to be received **ON OR BY 5.15 P.M. ON WEDNESDAY, 1 APRIL 2009.**

Details of the documents the Portfolio Holder considered are attached.

DECISION: To endorse the proposed Local Land Charges Search Fees to take effect from 7 April 2009.

REASON: See Report.

ANY ALTERNATIVE OPTIONS CONSIDERED AND REJECTED:

See Report.

CONFLICTS OF INTEREST DECLARED:

None.

For Further Information Please Contact:

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**PORTFOLIO HOLDER - PLANNING AND TRANSPORTATION
PORTFOLIO HOLDER – FINANCE AND EFFICIENCY**

**THE LOCAL AUTHORITIES (ENGLAND) (CHARGES FOR PROPERTY SEARCHES)
REGULATIONS 2008**

1. INTRODUCTION

- 1.1 The above Regulations allow a Local Authority to set charges for providing access to property records (unless the relevant information has to be provided free of charge or a statutory charge is in place) and answering enquiries about a property. The fee setting mechanism has to be clear, reports have to be produced every year showing how fees were set and what income was derived and over a three year period the costs should match income received.
- 1.2 This document explains the process New Forest District Council has followed to achieve these requirements.
- 1.3 It should be read in association with the attached Sheets 1 to 3 that are based on the Key Steps set out in the relevant government guidance that accompanied the 2008 Regulations, Sheet 4 that sets out the Land Charges costs for 2009/10 and Sheet 5 that contains the charges proposed for 2009/2010.

2. THE 2008 REGULATIONS

- 2.1 Regulation 5 allows an authority to impose a charge for granting access to property records if it makes or proposes to make an internal recharge for internal transactions, as is the case at New Forest District Council. Any such charge must be calculated in accordance with Regulations 6 and 7 which require that:
 - Any charges set must not be more than the costs incurred
 - Each charge shall be calculated by dividing a reasonable estimate of the likely total costs by the number of requests anticipated.
 - Over three years, reasonable steps must be taken to ensure that the Council's charges for providing 'unrefined data' (see below) do not exceed the costs of granting access to property records. Charges should be varied in any subsequent year if it becomes evident that the Local Authority has made a profit or loss in the preceding year.
 - Costs mean any costs to the Local Authority (including related salary costs and the costs of the creation and maintenance of records) reasonably incurred in connection with complying with a request for access to property records.
 - It does not include costs incurred in granting access to free statutory information or the costs of maintaining free statutory information.
- 2.2 Regulation 8 facilitates an additional charge in respect of answering queries from a person about a property. Any charge in this respect is at the Local Authorities discretion but must have regard to the costs of answering queries about the property.

2.3 Regulation 9 requires the Local Authority to publish a statement saying how it worked out its charges and, after the financial year 2010, a report has to be produced identifying costs and income with this signed off by the Section 151 Officer.

3. THE LOCAL AUTHORITY PROPERTY SEARCH SERVICES COSTING AND CHARGING GUIDANCE

3.1 The Regulations were accompanied by Department for Communities and Local Government (“DCLG”) guidance that established a framework for what can and cannot be charged for and proposes a model for ascertaining the costs in terms of the provision of unrefined data.

3.2 The purpose of the Regulations is to create a ‘level playing field’ for the Local Authority ‘front-office’ and the Personal Search Companies, whereby both have access at the same cost to the same set of ‘unrefined’ data. Unrefined data is, essentially, data that can be disclosed to the public but which is not referenced to a particular property. The guidance requires Local Authorities to make ‘unrefined’ information available to the public (notably Personal Search Companies) at a charge of no more than the cost of producing it and making it accessible.

3.3 The Personal Search Companies and the Local Authority ‘front-office’ can then ‘refine’ the ‘unrefined’ data by referencing it to a specific property in order to compile property search replies (for example CON29 information in response to a local search enquiry). Personal Search Companies also use the ‘unrefined’ data to compile Home Information Packs.

3.4 Because the Council relies on the Accolade system, for practical reasons, it is not viable to create ‘unrefined’ data (it may be possible to create an ‘unrefined’ data set but to do so would largely by-pass the Accolade system and therefore be very labour-intensive and costly). Therefore, the Council is, instead, having to allow the Personal Search Companies access to ‘refined’ property records on a cost-recovery basis. The DCLG guidance permits this in circumstances where a *“local authority may not be able to make the unrefined information available if it operates an electronic system holding pre-unrefined data”*.

3.5 The tables attached to this report comply with the key steps as set out in the DCLG guidance documents and are based on the best data available to the Council. It is accepted that the level of available data will need to be improved over the coming financial year (2009/2010) in order to provide more accurate data on which to base the charges for 2010/2011. However in the time available it was not possible to improve or break down the data any further, which is why costs for related groups of questions rather than individual questions have been defined.

3.6 Key assumptions made are identified as footnotes to the individual tables, the data and methodology has been agreed by the Council’s Principal Service Accountant responsible for the Land Charges Service and the resultant charges were signed off by the Planning and Transportation Portfolio holder on the %%th March 2009. The proposed fees have been rounded up or down in accordance with normal Council practice.

Table 1 contains information on identifying staff costs

Table 2 contains information on the allocation of activity costs

Table 3 contains information on calculating the Unit Charges

Table 4 contains information on the overall Land Charges costs

Table 5 contains the fees proposed for 2009/2010

- 3.7 The proposed charge of £80 for the CON29R replies (please see Table 5) reflects the cost of creating and making accessible the information. Whilst the Council has to provide access to that information to the Personal Search Companies 'at cost' (i.e. £80) it is open to the Council to charge more than £80 for providing official CON29R replies (for example to solicitors). However, to charge only £80 will make the Council very competitive in the market place.
- 3.8 The proposed charge for the LLC1 replies falls outside the new Regulations and it is not proposed that this charge is altered from the existing charge of £40.

4. CONCLUSION

- 4.1 In conclusion the Council proposes to set charges based on a reasonable expectation of the number and type of requests to be received over the next financial year and the costs of producing the 'refined' data (rather than 'unrefined' data) to answer these requests. The charges apply for the entire year and the actual income will be reported to the Section 151 Officer as required in due course.
- 4.2 On the basis of this additional data and the more advanced costing information to be obtained over the course of the year, costs for 2010/2011 will be set in due course. Any queries regarding these charges or the methodology used should be addressed to Chris Elliot, Head of Planning or David Groom, Development Control Manager.

5. CONSULTATIONS UNDERTAKEN

- 5.1 Apart from Officer discussions both in-house and with our neighbouring authorities no other consultations have been undertaken.

6. FINANCIAL IMPLICATIONS

- 6.1 There are no direct financial implications arising from this report given that the whole intention is that the costs of providing the Land Charges information is balanced by the income received.

7. EQUALITY AND DIVERSITY IMPLICATIONS

- 7.1 None.

8. CRIME AND DISORDER IMPLICATIONS

- 8.1 None.

9. ENVIRONMENTAL IMPLICATIONS

- 9.1 None.

10. RECOMMENDATION

- 10.1 The Planning and Transportation Portfolio Holder and Finance and Efficiency Portfolio Holder endorse the proposed charges as set out in Table 5 to this report.

11. PORTFOLIO HOLDERS DECISION

11.1 I endorse the recommendation set out in section 10 of this report.

.....
Portfolio Holder
(Planning & Transportation)

Dated 25th March 2009

.....
Portfolio Holder
(Finance & Efficiency)

Dated 25/3/09

Date Notification of this Decision given: 25 March 2009

Late Date for Call-In 1 April 2009

For further information contact:

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CLG Charging guidance p 26
Step 1 - identifying Staff Costs

Activity for CON 29 enquiries information

Dataset		WEEK 1				WEEK 2				WEEK 3				WEEK 4				Total hrs	Unit cost £	Total cost						
		M	T	W	T	F	M	T	W	T	F	M	T	W	T	F	M			T	W	T	F	per mth £	per yr £	
1.1 F - H	B Regs apps	Update	1				1				1				1				3	54.34	163	1,956				
		Access	2	1	1	2	0	2	1	2	1	1	2	1	1	2	1	3	1	1	2	27	54.34	1467	17,607	
3.1	Public purposes	Update	1												1				1	54.34	54	652				
		Access	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	15	54.34	815	9,782	
3.7	EH,HSG Notices	Update	1				1				1				1				5	54.34	272	3,261				
		Access	2	1	1	2	0	2	1	2	1	1	2	1	3	1	1	2	3	1	1	2	27	54.34	1467	17,607
3.8	B Ctrl Notices	Update	1		1										1				6	54.34	326	3,913				
		Access	2	1	1	2	0	2	1	2	1	1	2	1	3	1	1	1	3	1	1	1	26	54.34	1413	16,955
3.9	Planning Notices	Update	1												1				3	54.34	163	1,956				
		Access	1	2	1	1	1	1	2	1		2	1	1	2	1	1	1	2	1	1	1	20	54.34	1087	13,042
3.10	Conservation Areas	Update		1											1				2	54.34	109	1,304				
		Access	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	15	54.34	815	9,782
3.11	Comp Purch Orders	Update	1												1				2	54.34	109	1,304				
		Access	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	15	54.34	815	9,782
3.13	Radon Gas	Update				1									1				3	54.34	163	1,956				
		Access	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	1	15	54.34	815	9,782
		TOTAL																	185		10,053	120,641				

Budget staff costs £154,250 @ 78% = £120,315 / 2214 HRS = £54.34

Total hrs update 300 pa 25 Total hrs access = P/S C 29 2000@ 35 mins = 1167 hrs plus official C29 1400 @ 32 mins = 747 hrs

Assumptions:

- 1) Cost assessed using available information to identify time spent by staff to update chargeable (non statutory) and Con 29 records and to access such information in response to search enquiries received.
- 2) 48 week period used to accord with relevant CLG Search Charging Guidance
- 3) Unit Cost as identified by Principal Service Accountant
- 4) Unit cost based upon 78% of fee income from all Con 29 enquiries
- 5) Budget staff costs taken from Council Budget - see sheet 4
- 6) Access time based on percentage of staff working time at present

CLG Charging guidance p 28

Step 2 - allocation of total activity costs

Total costs per CON 29 dataset (non statutory registers)

Budget	BC LC	DC LC	EH, HSG LC		BC LC	LEG DC LC		CONS LC	LEG DC LC		EH LC							
Dataset	1.1F-H Update	B Regs Access	3.1 Pub Update	purp Access	3.7 Notices Update	3.8 B C Update	Notices Access	3.9 Plnng Update	Not Access	3.10 Cons Update	Area Access	3.11 Comp Update	POs Access	3.13 Radon Update	Gas Access			
Staff cost	1,956	17,607	652	9,782	3,261	17,607	3,913	16,955	1,956	13,042	1,304	9,782	1,304	9,782	1,956	9,782	120,641	
Premises	84	755	28	419	140	755	168	727	84	559	56	419	56	419	84	419	5,171	
Corporate Overheads)	253	2,277	84	1,265	422	2,277	506	2,192	253	1,686	169	1,265	169	1,265	253	1,265	15,600	
Supplies & Services)	805	7,245	268	4,025	1,342	7,245	1,610	6,976	805	5,366	537	4,025	537	4,025	805	4,025	49,639	
Support Services	766	6,895	255	3,831	1,277	6,895	1,532	6,640	766	5,108	511	3,831	511	3,831	766	3,831	47,245	
Systems Depeciation/ Cost of Capital	581	5,226	194	2,903	968	5,226	1,161	5,033	581	3,871	387	2,903	387	2,903	581	2,903	35,810	
TOTAL COST	4,445	40,005	1,482	22,225	7,408	40,005	8,890	38,523	4,445	29,633	2,963	22,225	2,963	22,225	4,445	22,225	274,106	
																	<u>274,106</u>	

Assumptions:

- 1) None of these datasets are affected by FOI or EIR
- 2) Staff costs taken from Step 1
- 3) Other costs identified by Principal Service Accountant
- 4) Available data only allows breakdown into certain activities/questions, not sub questions
- 5) Additional work to monitor activities/costs will be undertaken prior to setting fees in 2010/2011

78%	22%	
120,315	33,935	154,250
5,171	1,459	6,630
15,600	4,400	20,000
49,639	14,001	63,640
47,245	13,325	60,570
35,810	10,100	45,910
273780	77220	351000

CLG Charging guidance p 31

Unit Charge per CON 29 dataset (non statutory registers)

Step 3 calculating unit charges to make data accessible

Budgets	BC LC	DC LC	EH, HSG LC	BC LC	LEG DC LC	CONS LC	LEG DC LC	EH LC								
Dataset	1.1F-H B Regs Update Access	3.1 Pub purp Update Access	3.7 Notices Update Access	3.8 B C Notices Update Access	3.9 Plnng Nots Update Access	3.10 Cons Area Update Access	3.11 Comp P Os Update Access	3.13 Radon Gas Update Access								
TOTAL COST	4,445	40,005	1,482	22,225	7,408	40,005	8,890	38,523	4,445	29,633	2,963	22,225	2,963	22,225	4,445	22,225
No times accessed third party	3400	3400	3400	3400	3400	3400	3400	3400	3400	3400	3400	3400	3400	3400	3400	3400
No times accessed ALL		3400	3400	3400	3400	3400	3400	3400	3400	3400	3400	3400	3400	3400	3400	3400
UNIT CHARGES	1.31	11.77	0.44	6.54	2.18	11.77	2.61	11.33	1.31	8.72	0.87	6.54	0.87	6.54	1.31	6.54

Dataset

1.1 F - H B Regs apps TOTAL 13.07

3.1 Public purposes TOTAL 6.97

3.7 EH,HSG Notices TOTAL 13.94

3.8 B Ctrl Notices TOTAL 13.94

3.9 Planning Notices TOTAL 10.02

3.10 Conservtn Areas TOTAL 7.41

3.11 Comp P Orders TOTAL 7.41

3.13 Radon Gas TOTAL 7.84

Assumptions:

GRAND TOTAL 80.62

- 1) Total Cost taken from Step 2
- 2) Anticipated level of access based on current worl trends in last quarter 2008 & first quarter 2009 to date
- 3) Available information indicates that if one CON 29 enquiry is made, all enquirie should be required
- 4) Data in Step 3 will be collected over 2009/2010 and the results fed into subsequent charge setting exercises
- 5) In accordance with standard Council procedures fees have been rounded up/down to the nearest 50 pence.

Land Charges Costs - DD000

Employee Costs

Part of E990	SG910 Employee	46,330	
See Note 1	Transitional Costs / Redundancy	42,420	
Part of E988	SG900 Employee	65,500	
			154,250

Overheads

Premises

Part of E990	SG910 Premises	6,630	
			6,630

Corporate Costs

A999	Corporate Costs	20,000	estimate
			20,000

Supplies and Services

S040	Hired & Contracted	270	
S042	Other Hired Services	8,200	(incl. Radon Gas licence)
S402	HCC Charges	39,360	
Part of E990	SG910 Supplies and Services	2,640	
	Insurance	13,170	confirmed by Lizzie
			63,640

Support Services

E742	Legal & Democratic Services	4,220	
E766	Sundry Debtors	500	
E780	Accountancy	1,500	
E904	Policy & Plans	1,000	
E964	Central Purchasing etc	1,000	
E980	Building Control	10,070	
E906	Trees	1,500	
E908	Conservation	400	
	Environmental Health	1,500	to be confirmed by C Gallagher
	Housing Improvement	500	to be confirmed by S Gardener
Part of E990	SG910 Support Services	18,880	
Part of E988	SG900 Business Unit Overheads (*)	19,500	
			60,570

Capital Financing

Part of E990	SG910 Depreciation	960	
See Note 2	IT System Depreciation	34,950	
See Note 2	IT System Cost of Capital	10,000	
			45,910

Overall Total

351,000

Assumed Total Cost for Charge Setting

351,000

Difference (see Note 1 & 2 below)

0

Note 1: SG900 Business Unit Cost Allocation Difference

0

The £351,000 assumed costs in respect of the land charges business unit of £117,860. Following Chris' retirement the revised budgeted cost will be £75,440, resulting in a reduction of £42,420. You can probably claim in the first few years that the cost of retirement have to be recovered and that there are potential cost during a transition period (or even beyond) in employee time which has not yet been sufficiently reflected, which in total may well result in an overall cost (at least in the first few years) equivalent to the one included in the initial calculation. But you do need to be satisfied that this is a valid argument and that the figures stack up ... in which case we can add them into the above model

Note 2: Remaining Difference**0**

The remaining difference is largely due to the amount allowed in the initial calculation for IT costs, amounting to a total of £42,400 (£31,400 IT costs + £11,000 IT depreciation). From an initial discussion with Fiona Hughes it appears that land charges related IT support costs are already fully reflected in the £12,440 allocation they make to SG910, which is already reflected in the total in row 40 above. However the discussion also highlighted the issue that it appears overall the allocation of IT support costs to planning are significantly understated at the moment (SG900) and this would in turn affect overheads impacting on land charges (potentially raising costs by anything between £5 and £10k). In addition it would be appropriate to make an assessment of the likely systems value for land charges as the charges calculations allow for both a depreciation charge and a cost of capital charge (i.e. the cost of utilising money ...which is as a result not available to earn interest or to be invested into alternatives). Depending on the assumptions made this could be substantial (or not...). Perhaps at the moment an estimate will suffice if you're reasonably satisfied but it may lead to the need for substantial revision in due course.

	<u>5years</u>	<u>10 years</u>	
IT System (assumed value £150k) Depreciation	30,000	15,000	Depreciation
IT System (assumed value £150k) Cost of Capital	9,000	9,000	Cost of Capital 6%
Total Cost	<u>39,000</u>	<u>24,000</u>	

Control Totals (only for Alfons' use)

Control - all SG900	85000
Control - all SG910	75440

TABLE 5

New Forest District Council - Local Land Charges Search Fees 2009/2010

LLC1 only	RESIDENTIAL	40	
CON29R only	RESIDENTIAL	80	Note 1 below
LLC1 and CON 29R	RESIDENTIAL	120	
Refresher of residential search		60	MADE WITHIN 6 MONTHS OF ORIGINAL
LLC1 only	COMMERCIAL	50	
CON29R only	COMMERCIAL	110	
LLC1 and CON 29R	COMMERCIAL	160	
Refresher of commercial search		80	MADE WITHIN 6 MONTHS OF ORIGINAL
CON 29O optional enquiry	RESIDENTIAL &	COMMERCIAL	20
Additional parcel of land	RESIDENTIAL &	COMMERCIAL	20
Written Enquiries	RESIDENTIAL &	COMMERCIAL	40
Large Site Search			525
Duplicate search			16.50
Document sent by Fascimile			14.50
Personal Search:			
Inspection of Local Land Charge Register			12.50 INCLUDING PRINT OUT OF ENTRIES
Inspection of CON29R information not on public registers:			
Dataset			
1.1 F - H Building Regulation Applications			13
3.1 Public purposes			7
3.7 Statutory Notices			14
3.8 Building Control Statutory Notices			14
3.9 Planning Notices			10
3.10 Conservtion Areas			7
3.11 Compulsory Purchase Orders			7
3.13 Radon Gas			8
			<u>8</u>
	TOTAL		<u>80</u>

Note 1 - Full search CON 29R residential fee of £80 includes Highways questions but economies of scale cover the additional costs /time involved . Personal searches take longer for set up and enquiries may be selective.