

CABINET

7 March 2007

LAND CHARGES AND CEMETERIES – FEES AND CHARGES 2007/08

REPORT OF CITY SECRETARY AND SOLICITOR

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RECENT REFERENCES:

CAB1205 – Land Charges and Cemeteries – Fees and Charges 2006/07 – 7 February 2006

EXECUTIVE SUMMARY:

The report outlines the proposed changes to fees and charges, which take account of new legislative changes and guidance in respect of land charge fees.

The Land Charge Search element of the land charges fees was previously set by central Government, but is now to be set locally, taking into account guidance issued by the Secretary of State, with a view to this fee being set at a rate to recover costs year on year.

It is proposed to add a 10% increase in respect of cemetery fees, which will assist in contributing further towards cemetery maintenance costs.

RECOMMENDATIONS:

- 1 That a fee of £39 be set for the local land charge search fee (LLC1) for 2007/08.
- 2 That a fee of £118 be set for a combined LLC1/Con29 search fee for 2007/08.
- 3 That the other miscellaneous fees set out in Appendix 1 be approved
- 4 That the City Secretary and Solicitor, in consultation with the Director of Finance and the Portfolio Holder for Finance and Resources, be authorised to determine the amount of discount to be offered against normal fee levels where a search has been submitted in respect of the same property during the preceding four months.

- 5 That cemetery charges be increased with effect from 1 April 2007 by an average of 10%, as set out in Appendix 2, and that the City Secretary and Solicitor be authorised to amend other cemetery charges to achieve the same overall percentage increase.

CABINET7 March 2007LAND CHARGES AND CEMETERIES – FEES AND CHARGES 2007/08REPORT OF CITY SECRETARY AND SOLICITORDETAIL:1 Land Charges Fees

- 1.1 “Local Searches” comprise two elements, a fee for a search of the Local Land Charges Register (commonly known as an “LLC1” search) and a fee for the supply of answers to standard enquiries (commonly known as “CON29 enquiries”). Historically, the LLC1 fee has been set centrally by the Lord Chancellor, at a present rate of £6, discounted to £4 for searches submitted electronically.
- 1.2 Following the coming into force of Section 13A of the Land Charges Act 1975 (introduced by the Constitutional Reform Act 2005), registering authorities such as the City Council are now required to set and publicise their own fees for LLC1 searches. Statutory Guidance has been issued on setting of the fees for LLC1 searches, the basic principle being that taking one year with another, the income received does not exceed the costs of providing the service.
- 1.3 The costs of carrying out a LLC1 search have been assessed, and this work has been used to arrive at a proposed fee for this service for 2007/08. The Guidance has been taken into account in settling the proposed fee. Fees will be set on an annual basis, and the costs in providing the service will be reviewed in 2008 in order to comply with the legislative requirements and the Guidance. The Guidance was only received at the end of January, and it will be possible to carry out a detailed review of fees in 2008, taking into account experience of the new locally-set fees, and the introduction of Home Information Packs (see paragraph 2.1 below).
- 1.4 Guidance on fees for the Con29 element has not yet been settled. However, in anticipation that any such guidance in the future is likely to be on the same basis as the LLC1 (i.e. taking one year with another, the income received does not exceed the costs of providing the service, see paragraph 1.2 above), the combined fee for a search including both a LLC1 search and Con29 inquiries has been set applying the same principles as the statutory Guidance for LLC1 fees. Currently, the fee for a combined search is £140, and a fee of £118 is proposed. The setting of fees for information relating to the Council’s discharge of its functions in respect of land which is, or is proposed to be, the subject of a transaction remains governed by the Local Authorities (Charges for Land Searches) Regulations 1994. These Regulations provide that:-
- “The amount of a charge is to be at the local authority’s discretion and in determining that amount the authority shall have regard to its costs in dealing with enquiries within the description in Regulation 2(1).”*
- 1.5 At present, there is little, if any, difference in cost between searches received electronically (via the National Land Information Service, NLIS), and those received

by post. It is therefore proposed to charge the same fee regardless of the way in which the search is submitted. Once the computerisation project has been completed, any savings in processing costs for searches handled electronically can be reflected in the fees charges in future years. Fees for personal searches (carried out by private search agents, who attend the offices and inspect the register in person) are still set by central Government, and remain at £11. The likely income from this has been taken into account in determining the LLC1 fee, in accordance with the Guidance.

- 1.6 Search turnaround times in Winchester are good and 100% of searches comply with the national target of 10 working days or less. The use of private search agents is comparatively low, although it has been steadily increasing in recent years.

## 2 Land Charges Fees - Risk Assessment

- 2.1 In June 2007, the Home Information Pack (HIP) requirements will come into force. These will require a pack of information to be prepared before a residential property is marketed, including copies of deeds, general information about the property, and a local search or equivalent information. The original requirement for a Home Condition Report has now been made a voluntary part of the pack, but Energy Certificates remain mandatory. The full packs have been trialled in various areas, including Southampton. At this stage it is not clear what impact the packs will have in terms of a further increase in the numbers of personal searches being made, but the situation will be monitored throughout the year. If the introduction of the packs results in a significant move towards searches being carried out by personal search agents, rather than solicitors, this could have a major impact on the income for the service, given the difference between the statutory personal fee of £11 and the costs of the equivalent formal search. The work done by authorities in setting the LLC1 fee may be helpful in persuading Government to increase the personal search fee from £11, to offset any loss of expected income if the number of personal searches increases with the introduction of HIPs.
- 2.2 The fees have been set taking into account projected search numbers, on the basis of cost recovery in accordance with the Guidance. The limited time between the Guidance being issued and the budget being set meant that it was not possible to carry out the detailed work to assess costs before the budget was finalised. Because of the uncertainties over income as a result of the introduction of HIPs mentioned in paragraph 2.1 above, it will be necessary to review the budget at Revised stage in September 2007, when the position will be clearer.

### 3 Budget

3.1 The proposed budget for the service is as set out below:

	2005/06 Actual £	2006/07 Budget £	2006/07 Revised £	2007/08 Budget £
Gross Expenditure	317,287	315,420	315,100	403,478
Search Fees	(454,855)	(413,660)	(511,290)	(397,668)
Recharges	(5,810)	(5,810)	(5,810)	(5,810)
Net Surplus	(143,378)	(104,050)	(202,000)	0
Reserve	(12,566)	0	0	0
Capital Contribution	3,945	0	0	0
GF Contribution	(152,000)	(104,050)	(202,000)	0

3.2 Appendix 1 to this report sets out the proposed fee charges for the Land Charges function. This includes various miscellaneous fees which are currently set centrally, but from April will be set by local authorities. It is been decided to set a nil fee for registering charges on the register, and treat these costs as part of the general overhead of maintaining the register. In the light of experience during the year, this can be reviewed in 2008. Other fees have been assessed based on the likely cost of dealing with them.

### 4 Cemeteries

4.1 There are two cemeteries in Winchester Town which are directly administered by the City Council. Magdalen Hill receives the majority of burials. As it is full, West Hill is rarely used for new burials, except in existing family graves, but it does provide a public amenity. The net cost of both cemeteries is charged to the Winchester Town special expenses heading.

4.2 In 2006/07, a 10% fee increase was applied. Given the current budgetary position, it is again proposed to increase fees by 10%. The fees, together with fees from other Hampshire authorities, are shown in Appendix 2.

4.3 Representations have been received from a local Funeral Director, referring to the Council's position concerning fees levied for residents from wards adjoining the

Winchester Town area, i.e. Oliver's Battery and Badger Farm, and Harestock. The historic practice is to charge a double fee to residents from any ward outside the Winchester Town area, on the basis that the fees offset the costs of maintenance which are charged to the Winchester Town special expenses heading, and it is therefore reasonable to seek a higher contribution from residents outside the Town area. The representation seeks to amend this scheme of charging to remove the double charge to residents from these wards, on the basis that prior to 1974 these were within the City of Winchester, and residents in these areas consider themselves to be residents of the City.

- 4.4 Whilst these representations are noted, it is considered that the way in which the cemeteries are financed means that, for the reasons set out above, a differential is still appropriate. Were the relevant parish councils to offer an appropriate contribution towards the cemetery costs (in line with the element charged to the Town special expenses), the fee position could be reviewed. When this issue was last raised several years ago, parishes did not wish to do so. Members have previously indicated that they do not wish to amend the fee structure (Resources Scrutiny Panel considered the issue in November 2006, and decided not to recommend a change to the approach).

#### OTHER CONSIDERATIONS:

##### 5 CORPORATE STRATEGY (RELEVANCE TO):

- 5.1 Working Better – To deliver services efficiently and effectively. Performance Management – providing services that are efficient and at reasonable cost.

##### 6 RESOURCE IMPLICATIONS:

- 6.1 As set out above

#### BACKGROUND DOCUMENTS:

Budget papers held by Finance Department

#### APPENDICES:

Appendix 1 – Proposed Land Charges Fees

Appendix 2 – Cemeteries – Proposed Charges and Comparison Table

## Appendix 1

**Proposed Land Charge Fees**Land Charges Register Searches

Service	Fee
Official Search of the Local Land Charges Register (including issue of official certificate of search) (LLC1 only) in respect of a single parcel of land:-	
In respect of all parts of the register	£39
In respect of one part of the register	£33
Additional fee for each additional parcel of land included in the search	£10
Other fees	
Registration of a charge in the register	Nil
Filing a definitive certificate of the Lands Tribunal under rule 10(3)	Nil
Filing a judgment, order or application for the variation or cancellation of any entry in Part 11 of the register (light obstruction charges)	Nil
Inspection of documents filed under rule 10 in respect of each parcel of land	£5
Personal search in the whole or in part of the register in respect of one parcel of land	£11 (statutory fee)
and in addition, in respect of each additional parcel of land, where under rule 11(3) the search extends to more than one parcel...	£1 (statutory fee)
Office copy of any entry in the register (not including a copy or extract of any plan or document filed pursuant to these Rules)	£5
Office copy of any plan or other document filed pursuant to these Rules.	£5
<u>Enquiries of Local Authorities (Con 29)</u>	
Con 29 only (Standard Enquiries)	£79
Each additional parcel of land	£73
	£10
Optional enquiry	
	£15
Extra typed enquiry	
Personal Search	£11.00
(Personal Search additional parcel)	£1.00
Complete search (LLC1 and Con29)	£118

Appendix 2**CEMETERY FEES - COMPARISON LIST - (AUGUST 2006)**

(Double fee for non-residents\*)

(Treble fee for non-residents\*\*)

(Higher fee for non-residents\*\*\*)

<b>AUTHORITY</b>	<b>PRE-PURCHASE</b>	<b>NEW SINGLE</b>	<b>NEW DOUBLE</b>	<b>ASHES</b>	<b>ADULT COMMON</b>
<b>WINCHESTER (2006/07 fees) *</b>	£466	£613	£769	£152	£413
<b>Winchester PROPOSED (2007/08 FEES)</b>	£513	£674	£846	£167	£454
<b>SOUTHAMPTON *</b>	£483	£791	£870	£90	£376
<b>PORTSMOUTH *</b>	£150 25yrs £345 75 yrs	£650	£705	£75	£305
<b>EASTLEIGH *</b>	£400	£850	£1,000	£150	£450
<b>NEW FOREST *</b>	£298.70	£582.20	£596.90	£175.40	£283.50
<b>TEST VALLEY (1) ***</b>	£240)	£240	£330	£190	£90
<b>GOSPORT *</b>	£315	£672	£672	£168	£357
<b>FAREHAM *</b>	£325	£695	£695	£190	£370
<b>EAST HANTS ***</b>	£300	£850 (include memorial)	£850 (include memorial)	£350	£550

(1) TEST VALLEY -

a) Non-residents - Single fee charged for someone who has moved out of the area in previous twelve months, thereafter Double fee charged.

b) Currently, grave digging is not carried out by the Council, and is not therefore included in the fee charged. From 2007/08, the Council will be carrying out this function and fees will be increased to reflect this.