

Agreement to the transfer of the Land Charges Register to HM Land Registry and acceptance of funding support

Cabinet Member for Regulatory, Housing and Health

Date: 5th October 2021

Agenda Item: 3

Contact Officer: David Darlington

Tel Number: 01543 308155

Email: david.darlington@lichfielddc.gov.uk

Key Decision? YES

Local Ward Members Not Applicable



CABINET

1. Executive Summary

- 1.1 The Council will be in receipt of £75,000 (transitional payment scheme) and new burdens money following the transfer of the local land charges register. This is as a result of a national programme to transfer of all local land charges registers in England and Wales, creating a single on-line register.

2. Recommendations

- 2.1 Cabinet accepts a sum of £75,000 and subsequent new burdens money (estimated at £13,000) from HM Land Registry to facilitate the transfer of the LDC Land Charges register in accordance with the national programme.

3. Background

- 3.1 Every local authority in England and Wales, with the exception of County Councils, is required to hold a local land charges register. The register holds information relating to restrictions on land or property, for example, planning conditions, Listed Buildings, Conservation areas etc., and financial charges, for example, dangerous structure debts.
- 3.2 Under the Infrastructure Act 2015 the responsibility for those registers transferred to HM Land Registry and they have set in motion of programme of work to transfer each register. The first register was transferred in summer 2018
- 3.3 HM Land Registry are now working with the Land Charges Partnership to transfer both the Lichfield District Council and South Staffordshire Council registers, and as a result have made funding available to each Council.
- 3.4 The amount of funding being given to Lichfield District Council as part of this initial phase is £75,000. This is payable in two instalments, the first (£25K) following signing of a collaboration agreement, and the balance (£50K) will be paid on completion of the transfer.
- 3.5 The estimated new burdens payment is £13000 and is designed to cover LDC's costs in transferring the LDC register. HMLR have been asked to provide funding for LDC staff assisting with the South Staffs Council migration.
- 3.5 Whilst the Council is in the process of signing the [collaboration agreement](#), the transfer of the Lichfield register is not expected to take place until the first quarter of 2022/23 financial year.

- 3.6 An official search of the land charges register consists of two parts. The official register itself, and then additional questions, referred to as “CON29 questions”. A fee is charged to cover the cost of this service which in 2020/21 generated £229,681 across the partnership area (£134,427 LDC and £95,254 SSDC)
- 3.7 In addition to the official searches, the team facilitates personal searches of the register at no cost to the personal search company. This is a requirement of the law, and is approximately 50% of the workload.
- 3.8 Whilst this report relates to the £75,000 and new burdens money that LDC will receive, the search income for the entire service is paid to LDC, since it hosts the service (i.e. employees all staff). The transfer of the registers to HMLR will therefore mean a loss of income from both partnership areas which will equate to approximately £47,578 (£28,206 LDC and £19,372 SSDC)
- 3.9 The HMLR national programme will eventually split the official search function for all local authorities in England and Wales, and this poses a risk CON29 income because solicitors will need to separate their official search processes. This does not affect those that use personal search companies, therefore it could lead to solicitors that currently use the partnership to employ personal search companies instead resulting in a loss of CON29 income.
- 3.10 There are only 21 registers that have been transferred, and most of these transfers have only taken place in 2020 and 2021. Data analysis is further confused by the fact that most Land Charges teams have seen growth in search requests during 2020 and 2021. This has been attributed nationally to the ending of stamp duty tax relief that was extended from the end of March 2021 to September 2021, and higher savings caused by homeworking during lockdown in 2020/21.
- 3.11 Using contacts within some of those councils that have transferred their register it is evident that there is no clear picture of the impact on CON29 income. Competition from personal search companies usually leads to a reduction in market share at the rate of 2-3% per year. It is not unreasonable to assume that this rate will increase to say 5% in the short term, which equates to around £10,000 per year based on 2020/21 CON29 income for the partnership.
- 3.12 A mitigation for the loss of any income might be that the service investigates whether it's possible to carry out a search of the new HM Land Registry land charges register on behalf of CON29 customers. Furthermore, without the distraction of personal search requests the team will have more time to focus on performance, delivering searches more quickly, whilst using a ‘cleaner’ database.
- 3.12 A benefit of the transfer of the register is that the workload attributable to personal searches, and therefore the cost, should shift to HMLR, although additional questions, the equivalent of the CON29 process, will continue to be answered by the partnership. There is currently a charge for this service.
- 3.13 A project team representing various services that provided data to the current register, will work with HMLR to ensure that the data that was created by LDC since 1977 is as accurate as possible, and that following transfer, any new data will also be created in a format that is acceptable to HMLR. Whilst HMLR will undertake the bulk of the work to correct any data errors, the payment, as well as any new burdens payment will cover LDC’s costs in working with HMLR to transfer the LDC register.

Alternative Options	1. There are no alternative options to the national programme. The decision to sign up to the programme at this stage was to ensure consistency across the partnership area, and to take advantage of the financial and practical support offered by HMLR, which may not be available later in the programme.
Consultation	Not Applicable
Financial Implications	1. The payment from HMLR will reduce the financial burden on the Council to fund tasks that benefit only the national programme

	<ol style="list-style-type: none"> 2. The programme has already led to HMLR digitising Planning microfiche data at no cost to the Council. 3. The national programme will lead to the loss of all LLC1 income, which is approximately £47,578. 4. There may need to be a review of the staffing resources as a result of the transfer so that fees charged for CON29 data reflects the cost of the new service. 5. The need to maintain accurate data to 'feed' the national register will need to be funded by each council separately, and this will be reflected in a new partnership agreement with South Staffordshire Council. At this stage it is not understood what impact this will have on staff time, and therefore cost to LDC. New burdens payments will be paid to LDC to cover some additional costs. 6. The loss of personal search work will provide significant efficiencies, however this has traditionally been a cost covered by the fee earning customers, not the two councils in the partnership. 		
Approved by Section 151 Officer	Yes		
Legal Implications	<ol style="list-style-type: none"> 1. The Land Charges Register, whether operated by LDC or HMLR is a statutory function, and data must therefore be registered in a specific way. Whilst there are no legal implications as such, incorrectly registered data could expose LDC to claims from customers of HMLR, therefore it is important to maintain adequate insurance cover. 		
Approved by Monitoring Officer	Yes		
Contribution to the Delivery of the Strategic Plan	Not Applicable		
Equality, Diversity and Human Rights Implications	<p>There are no implications for equality, diversity or human rights since the Land Charges service is almost entirely 'business to business'. The programme to transfer the register simply shifts the data from one custodian to another. An advantage to the transfer would be data accessible 24/7, albeit that the whole process is now split between two providers.</p>		
Crime & Safety Issues	Not Applicable		
Environmental Impact	<p>In transferring the register it will shift to an online register, removing the need for personal search companies to physically visit offices, albeit the Lichfield staff chose to deliver this service via email prior to Covid.</p>		
GDPR / Privacy Impact Assessment	<ol style="list-style-type: none"> 1. Personal data may be held on the current Land Charges Register, however it is not expected that this data will transfer directly to HMLR. Where personal data is transferred, it will only be for the statutory purpose of the register. 2. There is a GDPR clause in the HMLR Collaboration Agreement to reflect the fact that raw data will be shared with HMLR in order for the transfer of the register to take place. 		
Risk Description & Risk	Original	How We Manage It	Current

	Owner	Score (RYG)		Score (RYG)
A	HMLR Income not accepted	Red	No Mitigation - Work would need to be undertaken at LDC cost, and to HMLR project plan timescales	Red
B	HMLR expects LDC to undertake remediate of data at its own cost	Red	Mitigation - Engage with HMLR and make use of their skills and funding	Yellow
C	HMLR burden on staff time is excessive	Yellow	Mitigation - Use funding from HMLR to engage agency staff for temporary period, either to back fill existing staff, or to provide specific skill set e.g. GIS/Mapping work	Green
D	Transfer of register reduces CON29 income because service is now split between HMLR and LDC	Yellow	Mitigation - Ensure process are efficient and costs minimised, maximise use of HMLR to present joined up service. Investigate whether it is possible to buy LLC1 search on behalf of official search customer	Yellow
E	Personal Search companies continue to ask LDC to provide free access to data	Yellow	Mitigation - Redirect to HMLR website. Offer compiled search service for a fee based on cost recovery	Green

	<p>Background documents</p> <p>Collaboration Agreement Template</p>
	<p>Relevant web links</p> <p>https://landregistry.github.io/local-land-charges/</p>