

CHARGING FOR SUPPLYING BUILDING CONTROL INFORMATION

Date: 11/2/2020
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Key Decision? No
Local Ward None
Members

CABINET

1. Executive Summary

- 1.1 Environmental information held by public bodies is important to society and has commercial value.
- 1.2 The Environmental Information Regulations 2004 (EIR) give rights of public access to environmental information. EIR overrides the Freedom of Information Act (FOI). No request for 'Environmental Information' can be made under the FOI, it must be made under the EIR.
- 1.3 Building Control environmental information is currently supplied by Council staff at no charge to personal search companies who sell the information to their customers. In some cases in direct competition with the Council.
- 1.4 However, over the last 12 months there has been a 100% increase in demand from within Lichfield District Council's boundaries.
- 1.5 The new 'Central Building Control Partnership' (6 Councils) has consolidated all building control information onto a single ICT system located at Lichfield District Council which is fully accessible to all partner councils. It is not a 'public register' and it contains personal and sensitive information. Therefore, information has to be supplied by each Council's staff.
- 1.6 Following EIR case law and Information Commissionaire Officer Guidance, Councils can now set a charge for supplying environmental information, such as that held by building control.
- 1.7 It is recommended to set a charge and recover the costs of staff time and permitted overheads in supplying the information.
- 1.8 The small unit charge will affect around half of property transactions where a personal search company provides the search information. The small charge would have no effect on the property market but would ensure future service delivery is sustainable.
- 1.9 The fees will help to deliver good quality services at the lowest net cost possible to the taxpayer.

2. Recommendations

- 2.1. Approve a new proposed charging scheme for supplying building control environmental information in accordance with the Environmental Information Regulations 2004.
- 2.2. Delegate the setting of the charges to Head of Economic Growth & Development

3. Background

- 3.1 Since October 2019 all six Councils in the new building control partnership share a single IT system for building control information and must provide public access to environmental information.
- 3.2 The proposed Building Control Charging Scheme is attached, along with the detailed charging calculation and satisfies all the points raised in the Information Commissionaires Guidance and is fully in compliance with the EIR.
- 3.3 Fees are calculated on the hourly rate of a Band D post, including permitted overheads and excluding costs associated with ICT systems, and excluding all supplies and services costs. The average time to supply the information was based on 100 real examples.
- 3.4 It is expected that 5 of the 6 Councils in the Central Building Control Partnership will be included.
- 3.5 The service would be carried out, if agreed with other councils, by the Land Charges partnership. This is because the enquiries are as a result of requests for information relating to property transactions and this is the core business of the land charges team. Land charges staff have the expertise and share customers and can provide a one-stop-shop solution that helps to improve the customer journey.

Alternative Options	<ul style="list-style-type: none">1. Continue to provide a free service. This would result in increasing costs and potentially increased response times.2. Provide information via a free data set using the internet. This is the preferred option of personal search companies and a future vision of the building control partnership. However, this requires investment to combine multi data and document sets which is ongoing work planned over the next two years and not an immediate priority of the new building control partnership.
Consultation	<ul style="list-style-type: none">1. Personal Search Companies that regularly access information along with their representative body have been consulted. There is a clear preference to have free direct access to the information via the internet. They believe that they are entitled to the data for free.2. All 6 councils in the Central Building Control Partnership have free access to the shared register and all 6 councils are considering similar recommendations to charge. Their decisions will affect the volume of work and income received by Lichfield DC staff.3. Legal Advice was obtained through the Local Government Association along with other Councils. The legal advice supports and is consistent with this new Charging Scheme.

Financial Implications	<div><div><div>1. The new income stream cannot be used to generate profit.</div><div>2. The service will be provided on a cost recovery basis.</div><div>3. The volume of work has been estimated based on recent data for the 5 Councils that we expect to be included.</div><div>4. Final decisions on income and resource allocation will be made when all Councils have formally decided how to proceed.</div><div>5. This will require two internal changes to the Land Charges Partnership and will be implemented as a Land Charges project. No other changes are proposed.</div></div><div><div>I.The current Assistant Team Leader post is an honorarium arrangement which will end and a permanent Assistant Team leader position will be created, ring-fenced to existing Land Charges staff to apply.</div><div>II.There is a part-time (22 hrs) temporary (6 month) Band ‘D’ post (Technical Support Officer) in place currently assisting in delivering this service. This will be extended up to two years depending on the forecast income and workload. Cost of that is £15,000 per year.</div></div></div> <table><tr><th>QUESTION:</th><th colspan="7">which of the following relating to the property have been granted, issued or refused or (where applicable) are the subject of pending applications or agreements?</th></tr><tr><th></th><th><i>Building Regulations approval</i></th><th><i>A Building Regulation completion certificate</i></th><th><i>Any ...work carried out under a competent person self-certification scheme</i></th><th>Fee calculation based on £22.10 per hour Excluding IT costs</th><th>Unit Fee</th><th>Forecast demand Year 1</th><th>Forecast Income Year 1</th></tr><tr><td>Lichfield DC (From 1st Jan 1997)</td><td>£4.80</td><td>£1.60</td><td>£1.60</td><td>Average 22 minutes</td><td>£8.00</td><td>950</td><td>£6,460.00</td></tr><tr><td>South Derbyshire DC</td><td>£4.80</td><td>£1.60</td><td>£1.60</td><td>Average 22 minutes</td><td>£8.00</td><td>600</td><td>£4,080.00</td></tr><tr><td>Tamworth BC (From 2009)</td><td>£4.80</td><td>£1.60</td><td>£1.60</td><td>Average 22 minutes</td><td>£8.00</td><td>500</td><td>£3,400.00</td></tr><tr><td>North Warwickshire BC</td><td>£4.80</td><td>£1.60</td><td>£1.60</td><td>Average 22 minutes</td><td>£8.00</td><td>800</td><td>£5,440.00</td></tr><tr><td>South Staffs (From 1st Jan 2002)</td><td>£4.80</td><td>£1.60</td><td>£1.60</td><td>Average 22 minutes</td><td>£8.00</td><td>800</td><td>£5,440.00</td></tr><tr><td></td><td></td><td></td><td></td><td></td><td></td><td>TOTAL</td><td>£24,820.00</td></tr><tr><td></td><td></td><td></td><td></td><td></td><td></td><td>INCOME</td><td></td></tr></table>	QUESTION:	which of the following relating to the property have been granted, issued or refused or (where applicable) are the subject of pending applications or agreements?								<i>Building Regulations approval</i>	<i>A Building Regulation completion certificate</i>	<i>Any ...work carried out under a competent person self-certification scheme</i>	Fee calculation based on £22.10 per hour Excluding IT costs	Unit Fee	Forecast demand Year 1	Forecast Income Year 1	Lichfield DC (From 1st Jan 1997)	£4.80	£1.60	£1.60	Average 22 minutes	£8.00	950	£6,460.00	South Derbyshire DC	£4.80	£1.60	£1.60	Average 22 minutes	£8.00	600	£4,080.00	Tamworth BC (From 2009)	£4.80	£1.60	£1.60	Average 22 minutes	£8.00	500	£3,400.00	North Warwickshire BC	£4.80	£1.60	£1.60	Average 22 minutes	£8.00	800	£5,440.00	South Staffs (From 1st Jan 2002)	£4.80	£1.60	£1.60	Average 22 minutes	£8.00	800	£5,440.00							TOTAL	£24,820.00							INCOME	
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Contribution to the Delivery of the Strategic Plan	<div><div>1. Providing good quality, resilient and sustainable statutory services.</div></div>																																																																								
Equality, Diversity and Human Rights Implications	<div><div>1. None</div></div>																																																																								
Crime & Safety Issues	<div><div>1. None</div></div>																																																																								
GDPR/Privacy Impact Assessment	<div><div>1. None. This proposal is fully consistent with GDPR.</div></div>																																																																								

	Risk Description	How We Manage It	Severity of Risk (RYG)
A	Each Council decides to deliver the service individually, reducing income levels.	This is acceptable. Volumes will reduce, our resource requirements will reduce accordingly.	Green
B	Councils in the Building Control Partnership may not agree to charge and want to provide the information without charging.	This is acceptable as Councils have access and will provide the information directly using their own resources. If the Land Charges partnership supply the information there would be a recharge back to councils at the same rate.	Green
C	Legal challenge by the Personal Search Companies.	Follow LGA legal advice, EIR and ICO guidance to the letter. Maintain transparency and accurate records.	Yellow
D	Opportunity to create a publically accessible Data set arises sooner than expected.	There would be no legal requirement to resource this service. Therefore, keep temporary contract in place.	Yellow
E	Income exceeds forecast.	Additional temporary resources can be employed if necessary.	Green
F	Income falls below forecast	Forecasts are realistic and allow for reduced demand. Income levels to be regularly monitored.	Green

Background documents

Proposed Charging Scheme

Relevant web links

<https://ico.org.uk/media/for-organisations/documents/1627/charging-for-environmental-information-reg8.pdf>