

# DECISION ITEM



REPORT OF	MEETING	DATE	ITEM NO
DEVELOPMENT SERVICES DIRECTORATE	OPERATIONAL MANAGEMENT COMMITTEE	13 SEPTEMBER 2016	5
<b>LAND CHARGES FEES</b>			

## PUBLIC ITEM

This item is for consideration in the public part of the meeting.

### SUMMARY

The report gives details of proposed revised fees and charges for Local Authority land charges services and the proposed new charging regime for the supply of environmental information under the Environmental Information Regulations.

Fees for land charges services have not been increased since 2010 due to ongoing litigation relating to charges for these services.

### RECOMMENDATIONS

**The Committee are requested:**

1. To approve the revised fees as identified in schedule 1 for land charges services from the 1<sup>st</sup> January 2017;
2. To approve the new fees as identified in schedule 2 for the supply of environmental information from the 1<sup>st</sup> January 2017;
3. To note the £10,000 cost to integrate the councils existing software with the 'Web pay' system to provide an online application system which will be contained within existing approved budgets.

### SUMMARY OF PREVIOUS DECISIONS

None

### CORPORATE PRIORITIES

Spending your money in the most efficient way to achieve excellent services ( <b>Value for Money</b> )	√
Delivering the services that customers expect of an excellent council ( <b>Clean and Green</b> )	√
Working with all partners ( <b>Vibrant Economy</b> )	
Fylde continues to be one of the most desirable places to live ( <b>Great Place to Live</b> )	
Promoting Fylde as a great destination to visit ( <b>Great Place to Visit</b> )	

## REPORT

1. Fylde Borough Council current scheme for the Recovery of Land Charges fees came into force on the 1<sup>st</sup> January 2010. The scheme has remained unchanged due to legal proceedings being taken against all local authorities in England and Wales since August 2011. Personal search companies have been seeking compensation in respect of :
  - allegedly unlawful charges imposed by them for the inspection of environmental information; and
  - compensation for the loss of market share resulting from the imposition by local authorities of allegedly unlawful practices.

These legal proceedings have now been concluded and new advice and guidance has been issued on charging for property search information under the Environmental Information Regulations 2004. It is now appropriate to review the fees and charges for the service.

2. On the 6<sup>th</sup> October 2015 the European Court of Justice delivered its judgment confirming that public authorities can recover costs of staff time and overheads attributable to supplying environmental information provided the overall charge is reasonable. However, the Court decided that charges for supplying environmental information may not include any costs for maintaining a database.
3. The Judgment is now binding law and any charges levied by authorities for supplying environmental information needs to be consistent with it.
4. As the supply of environmental information is not limited to local land charges departments the courts judgment is relevant to all the councils departments which produce and supply environmental information. This includes planning, building control, environmental health and housing.
5. The Council has received comprehensive legal advice and guidance on the implications of the decision for all the relevant local authority departments which supply environmental information and have carried out a detailed study of the costs incurred by the Council in providing this service to arrive at a reasonable tariff of charges.
6. The court's decision is a positive step forward and confirms that authorities can charge for staff time, overheads and disbursements associated with the supply of environmental information.
7. The court's decision only applies to supplying environmental information and does not affect charges for official searches.
8. The court also drew a clear distinction between providing access to registers or lists or examination in situ (often referred to as personal inspection) of environmental information. No charge can be levied for providing access to registers/lists or for personal inspection of environmental information. However, authorities can levy a charge for "supplying" environmental information.
9. It is therefore recommended that the Council recovers its cost for supplying environmental information.
10. European legislation provides that authorities are entitled to levy a market based charge where the information is being provided on a commercial basis and the service would not continue to be provided if such a charge could not be levied. As authorities are not required to provide official CON29R and CON29O searches under any legal enactment, and because the service involves more than simply making information available (the results being certified and insured by the authority) the strict charging provisions of the Environmental Information Regulations 2004 do not apply to official searches.

11. However, authorities are still required to comply with the Local Authorities (England) (Charges for Property Searches) Regulations 2008 when setting their official search fees. These regulations provide that authorities must have regard to the costs to the authority of providing the information – but it is permissible for “costs” in this sense to include indirect as well as direct costs (such as the cost of maintaining a database, which is excluded under the Environmental Information Regulations).
12. A local authority must take all reasonable steps to ensure that over the course of any period of three consecutive financial years, the total income (including notional income from internal transactions) from its charges and recharges does not exceed the total cost of granting access to property records.
13. Officers have therefore carried out a detailed study of the costs incurred by the Council in providing the land charges service to arrive at a reasonable tariff of charges. It is therefore recommended that the Council recovers its costs for the land charges service. Details of the charges are contained in Schedule 1.
14. To implement the new charges for Environmental Information it will be necessary to integrate the Councils existing software with the ‘Web pay’ system to provide an online application system. This will cost in the region of £10,000 which can be contained within existing approved budgets. This piece work will take some time to implement and it is therefore proposed to introduce the new fees from 1<sup>st</sup> January 2017. Details of the charges are contained in Schedule 2.

IMPLICATIONS	
Finance	<p>This report requests approval to a revised charging regime in respect of land charges services and the supply of environmental information, to be effective from the 1st January 2017. It is not possible at this point to accurately determine the level of additional income that the changes will generate, but that total will be within the level that may be approved by programme committees outside of the annual budget setting process (£25,000 in any financial year).</p> <p>The implementation of the proposed amended regime of charges will require the integration of the Councils existing software with the ‘Web pay’ system in order to provide an online application system. The cost of this is estimated at £10,000 which will be contained within existing approved budgets.</p>
Legal	The report and its recommendations take into account and follow direction given by the courts in a series of legal cases concerning charges for the provision of environmental information.
Community Safety	None
Human Rights and Equalities	None
Sustainability and Environmental Impact	None
Health & Safety and Risk Management	None

LEAD AUTHOR	TEL	DATE	DOC ID
Andrew Dickson	01253 658675	Date of report	30 <sup>th</sup> August 2016

LIST OF BACKGROUND PAPERS		
Name of document	Date	Where available for inspection

Attached documents

1. Schedule 1 - Land Charges Search Fees
2. Schedule 2 - Environmental information fees