FEES FOR LOCAL LAND CHARGES AND PROPERTY-searches

BRIEFING REPORT

13th June 2016

1. INTRODUCTION

1.1. This report puts forward proposals to amend the charges for two types of paid-for Local Land Charges and Property Searches; the overwhelming majority of which are undertaken by solicitors, conveyancers or personal search companies during the house buying process, rather than by members of the public directly.

1.2. This proposal relates to the search service provided by Plymouth City Council (“the Council”) in respect of official full Local Land Charges searches only (‘LLC1’ and ‘Con 29’ or ‘Con 29’ only); it does not affect the alternative search route available through the Environmental Impact Regulations 2015, nor any other type of search.

1.3. The relevant searches are the ‘LLC1’ search; by which the Local Land Charges Team undertake a search of the local land charges register in respect of a specific property address and then compile and provide a report detailing the results. The Local Land Charges Register is a register that Local Authorities have a statutory duty to maintain; recording issues that could affect a prospective purchaser’s decision about buying a property or land.

For example, the register records the existence of Tree Preservation Orders, Conservation Areas and listed buildings as well as information about any enforcement action taken or financial charges relating to work in default at a property.

1.4. The ‘Con29’ search provides additional information regarding proposals relating to the property, for example about which roads near to a property are publicly maintained, or about proposals for schemes such as Compulsory Purchase Orders or Traffic Schemes.

1.5. The reasons for a review at this time are twofold:

1.5.1. The amendment of the Con29 enquiry form by the Law Society, which has resulted in changes in the current form, which will take effect as from 4th July 2016.

1.5.2. The recent confirmation from HMRC that VAT must be charged on Con29 searches on a date that is likely to be confirmed by HMRC shortly.


2 For a considerable time, the question of whether VAT must be charged on Con29 searches has been being jointly reconsidered by CIPFA (The Chartered Institute of Public Finance and Accountancy) on behalf of all local authorities and HMRC. In recent months HMRC has determined that, in the absence of a special legal regime establishing that VAT need not be charged, VAT must be included within the fee for these types of property searches (‘Con 29 searches’). At the time of drafting this report, the date when this was to take effect was from 4th July 2016, however Plymouth City Council was informed on 08/06/16 that the date for implementation date has now been
2. BACKGROUND

2.1. The Council undertakes approximately 3500 Official Searches (comprising a LLC1 and Con29 search) per year.

2.2. A wholesale review of the costs of providing Official Searches has recently been undertaken, which has involved calculation of the average rate per minute of the team members undertaking these searches as well as the calculation of the average time incurred by the team in dealing with requests; locating, reviewing and compiling the information into a form that can then be compiled into an Official Search. The information contained within the Official Search result is guaranteed for accuracy by the Council and this is backed by an insurance premium.

3. CURRENT POSITION

3.1. The power and mechanism governing the setting and publication of charges for Official Searches has been derived from the Local Land Charges Act 1975, the Local Land Charges Rules 1977, Recital 18 of the Environmental Information Directive (2003/4/EC) and the Local Authorities (Charges for Property Searches) Regulations 2008.

3.2. Prior to review, the current charge for an Official Search is £88.00.

3.3. By way of comparison to other Local Authorities, this is about average when compared to other cities in Southern England that have previously been used as benchmarking authorities by the Council (giving an average charge for an Official Search of £88.90) (see Appendix 1), but higher than the average charge for Official Searches when compared against the nine other Local Authorities in Devon (giving an average charge of £77.55) (see Appendix 2).

3.4. An analysis of the estimated average time and cost of producing an Official Search result, following the forthcoming amendments to the Con29 form and imposition of VAT on this element of the search indicates that from 4th July 2016 the cost of an Official Search should be £81.00, excluding VAT (and £92.76 once the requirement for VAT to be added has been triggered.)

3.5. The actual reduction by the Council in the net cost of providing an Official Search result is £7.00. This is due to efficiency improvements within the Local Land Charges Team’s internal office procedures and advances in technology.

4. PROPOSALS

4.1. The principal aim of these proposals is to reflect the outcome of the review of the cost of providing this service, prompted by the imminent amendment to the Con29 form and the forthcoming imposition of VAT to part of the Official Search.

---

3 In 2015-2016 the Land Charges Team processed 3728 requests for full Official Searches.

4 Against other cities of a similar size in Southern England, plus Bristol (as the principle city in the South West). http://www.plymouth.gov.uk/homepage/councilanddemocracy/aboutus/howwecompare.htm
4.2. The proposed new fee has been calculated in accordance with the principle of cost recovery (following an analysis of the average employee cost per minute to validate the property address/boundary plan provided, extract data and compile an accurate search result) and having had regard to:

4.2.1. The Local Authorities (Charges for Property Searches) Regulations 2008\(^5\)
4.2.2. Recital 18 of the Environmental Information Directive (2003/4/EC)\(^6\)
4.2.3. Plymouth City Council’s Fees, Charges and Concessions Policy\(^7\) and
4.2.4. Guidance produced by the ICO\(^8\) and DCLG in respect of charging for property searches\(^9\).
4.2.5. The Local Land Charges Act 1975 (as amended)
4.2.6. The Local Land Charges Rules 1977 (as amended)

4.3. It is therefore proposed to:

4.3.1. Charge a fee of £81.00 (exc) as from and including 4\(^{th}\) July 2016.
4.3.2. Impose VAT from the date required by HMRC. From this date, it is proposed that the fee should then be £92.76 (inc VAT), (remaining at £81.00 (exc)).

5. FINANCIAL IMPLICATIONS

5.1. The cost of implementation of this proposal is solely related to the cost of IT support in changes to the software used. The total cost of making the required amendments will be £5550 (net) and will be managed within the existing budget.

6. RECOMMENDATION

6.1. It is recommended to implement the proposal set out at 4.3.1 with effect from 4\(^{th}\) July 2016.
6.2. It is recommended that the proposal set out at 4.3.2 should be implemented as from the date required by HMRC.

Helen Morris
Lawyer
helen.morris@plymouth.gov.uk
8\(^{th}\) June 2016

\(^1\)https://www.lexisnexis.com/uk/legal/results/docview/docview.do?docLinkInd=true&risb=21_T24153829853&format=GNBFULL&sort=BOOLEAN&startDocNo=1&resultsUrlKey=29_T24153829855&cisb=22_T24153829855&treeMax=true&treeWidth=0&csi=283307&docNo=1
\(^3\)http://democracy.plymouth.gov.uk/documents/s50553/fees\%20charges\%20and\%20concessions\%20policy.pdf
\(^5\)http://democracy.tunbridgewells.gov.uk/documents/s19094/local\%20authority\%20property\%20search\%20services\%20\%20costing\%20and\%20charging\%20guidance.pdf