

| Bath & North East Somerset Council | | |
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| DECISION MAKER: | Cllr Richard Samuel - Cabinet Member for Resources | |
| DECISION DATE: | On or after 18 July 2020 | EXECUTIVE FORWARD PLAN REFERENCE: |
| | | E 3216 |
| TITLE: | Fees & Charges 2020/21- Legal Services | |
| WARD: | All | |
| AN OPEN PUBLIC ITEM | | |
| List of attachments to this report: | | |
| Appendix 1 Proposed new charging rates | | |

1 THE ISSUE

- 1.1 The purpose of this report is to obtain agreement to the fees and charges for specified services provided, within Legal Services (Service).

2 RECOMMENDATION

The Cabinet Member is asked to;

- 2.1 Approve the recommendation for the new fees, charges for relevant services - as proposed in Appendix 1 to be implemented as soon as possible from 1 July 2020.

3 THE REPORT

- 3.1 The Service has not reviewed its fees and charges since 2015. In light of this and the current financial pressures facing the Council, the Service has reviewed its fees. The compounded inflation rate since 2015 is 11.59%. The standard hourly rate charged to external parties would therefore increase from £150 to £168 (rounded up to the nearest pound).
- 3.2 Local authorities are not constrained in how they calculate costs and so they can include the full cost of all aspects of service provision. This means the Service can take the opportunity to invest in the infrastructure for services and recover the costs through charging.

- 3.3 The majority of legal income remains heavily dependent upon the property market and is generated by the recovery of costs from developer funded work.

4 STATUTORY CONSIDERATIONS

- 4.1 Section 93 of the Local Government Act 2003 gives local authorities the power to charge for services which they have a power but not a duty to provide. The level of income is restricted to the amount it costs to provide the services.

5 RESOURCE IMPLICATIONS (FINANCE, PROPERTY, PEOPLE)

- 5.1 This is an update to charges for existing services; no additional resources are required to implement the recommendations. This review is needed to reflect the cost of the services provided and to support existing revenue budgets.

6 RISK MANAGEMENT

- 6.1 A risk assessment related to the issue and recommendations has been undertaken, in compliance with the Council's decision making risk management guidance.

7 CLIMATE CHANGE

- 7.1 The proposed fees do not impact directly climate change.

8 OTHER OPTIONS CONSIDERED

- 8.1 To retain fees at the current level with the risk that the Service does not meet its revenue budget.

9 CONSULTATION

- 9.1 The Council has benchmarked its charges and ensured these are in line with those of neighbouring councils.

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| Contact person | Maria Lucas, Monitoring Officer tel: 01225 395171 |
| Background papers | None |
| Please contact the report author if you need to access this report in an alternative format | |

APPENDIX 1

LETTINGS/SURRENDERS/SALES

| <u>Transaction</u> | <u>Basic Fee</u> Plus VAT (if applicable) & Disbursements (Land Registry etc.) & Notice Fee (£50 or as stated in Lease) | <u>Deed of</u> <u>Guarantee</u> from 3 rd <u>Party</u> | <u>Rent</u> <u>Deposit</u> <u>Deed</u> | <u>Bank</u> <u>Guarantee</u> | <u>Change</u> <u>of Use</u> | <u>Deed of</u> <u>Variation</u> |
|---|---|--|--|---------------------------------|--------------------------------|------------------------------------|
| Consent to Assignment/Transfer | £950 inc. Letter of Consent, AGA/Deed of Covenant (as appropriate, depending upon status of Lease pursuant to 1995 Covenants Act) | £168 | £168 | £112 | £112 | £168 |
| Consent to Underletting of <i>Whole</i> <i>within</i> Landlord and Tenant Act 1954 | £1,060 inc. Letter of Consent, Deed of Covenant & Review of Underlease | £168 | N/A | N/A | £112 | £168 |
| Consent to Underletting of <i>Whole</i> <i>excluded</i> from Landlord and Tenant Act 1954 | £1,120 inc. Letter of Consent, Deed of Covenant, Review of Underlease & scrutiny of Exclusion | £168 | N/A | N/A | £112 | £168 |
| Consent to Underletting of <i>Part</i> <i>within</i> Landlord and Tenant Act 1954 | £1,170 inc. Letter of Consent, Deed of Covenant, Review of Underlease & Consideration of Plan/Rights/Reservations | £168 | N/A | N/A | £112 | £168 |
| Consent to Underletting of <i>Part</i> <i>excluded</i> from Landlord and Tenant Act 1954 | £1,220 inc. Letter of Consent, Deed of Covenant, Review of Underlease, Consideration of Plan/Rights/Reservations & scrutiny of Exclusion | £168 | N/A | N/A | £112 | £168 |
| Deed of Variation of <i>Unregistered</i> Lease | £1,060 inc. drafting Deed & considering impact of variation on remainder of Lease, e.g. rent review | N/A | N/A | N/A | N/A | N/A |
| Deed of Variation of <i>Registered</i> Lease | £1,060 inc. drafting Deed in Land Registry approved format, considering impact of variation on remainder of Lease, e.g. rent review and registration at Land Registry | N/A | N/A | N/A | N/A | N/A |
| Licence for Alterations relating to <i>Whole</i> demise | £1,000 inc. drafting Licence (especially reinstatement obligations) & reviewing Plan(s)/Specification | N/A | N/A | N/A | N/A | N/A |
| Licence for Alterations relating to <i>Part</i> demise | £1,120 inc. drafting Licence (especially reinstatement obligations) & reviewing Plan(s)/Specification | N/A | N/A | N/A | N/A | N/A |

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| Grant of Lease <i>within</i> Landlord and Tenant Act 1954 | £2,500 inc. drafting Lease & Replies to CPSE | £168 | £168 | £112 | N/A | N/A |
| Grant of Lease <i>excluded from</i> Landlord and Tenant Act 1954 | £2,680 inc. drafting Lease, serving Exclusion Notice, Preparing Declaration/Statutory Declaration & Replies to CPSE | £168 | £168 | £112 | N/A | N/A |
| Grant of Lease with Agreement for Lease <i>within</i> Landlord and Tenant Act 1954 | £2,900 inc. drafting Agreement for Lease, drafting Lease & Replies to CPSE | £168 | £168 | £112 | N/A | N/A |
| Grant of Lease with Agreement for Lease <i>excluded from</i> Landlord and Tenant Act 1954 | £3,100 inc. drafting Agreement for Lease, drafting Lease, serving Exclusion Notice, Preparing Declaration/Statutory Declaration & Replies to CPSE | £168 | £168 | £112 | N/A | N/A |
| Surrender of Lease | £1,200 inc. drafting Deed of Surrender, Replies to Enquires before Surrender, review of VAT & SDLT and cancellation at Land Registry (if applicable) | N/A | N/A | N/A | N/A | N/A |
| Agreement to Surrender & Surrender of Lease <i>excluded from</i> Landlord and Tenant Act 1954 | £1,350 inc. drafting Agreement to Surrender, drafting Deed of Surrender, Replies to Enquiries before Surrender, review of VAT & SDLT and cancellation at Land Registry (if applicable) | N/A | N/A | N/A | N/A | N/A |
| Agreement to Surrender & Surrender of Lease <i>within</i> the Landlord and Tenant Act 1954 | £1,500 inc. drafting Agreement to Surrender, drafting Deed of Surrender, Replies to Enquiries before Surrender, serving Exclusion Notice, Preparing Declaration/Statutory Declaration, review of VAT & SDLT and cancellation at Land Registry (if applicable) | N/A | N/A | N/A | N/A | N/A |
| Sale of Land (Registered Whole) | £2,500 inc. drafting Contract, Replies to CPSE, Replies to Requisitions & approving Transfer | N/A | N/A | N/A | N/A | N/A |

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| Sale of Land (Registered Part) | £2,800 inc. drafting Contract, Replies to CPSE, Replies to Requisitions & approving Transfer (inc. reservations/rights) | N/A | N/A | N/A | N/A | N/A |
| Sale of Land (Unregistered Whole) | £2,800 inc. drafting Contract, Replies to CPSE, Replies to Requisitions & approving Transfer | N/A | N/A | N/A | N/A | N/A |
| Sale of Land (Unregistered Part) | £3,000 inc. drafting Contract, Replies to CPSE, Replies to Requisitions & approving Transfer (inc. reservations/rights) | N/A | N/A | N/A | N/A | N/A |
| Other | | | | | | |
| STANDARD HOURLY RATE FOR ALL WORK Excluding S106 work | £168.00 p/hr | | | | | |
| PLANNING AGREEMENTS Section 106 – HOURLY RATE All work connected with Planning Agreements including variations, releases, supplementary agreements etc | £178.00 p/hr | | | | | |