

<b>Bath &amp; North East Somerset Council</b>		
DECISION MAKER:	<b>Cllr Mark Elliott - Cabinet Member for Resources</b>	
DECISION DATE:	<b>On or after 15<sup>th</sup> June 2024</b>	EXECUTIVE FORWARD PLAN REFERENCE: E3550
TITLE:	<b>Fees and Charges - Legal Services</b>	
WARD:	All	
<b>AN OPEN PUBLIC ITEM</b>		
<b>List of attachments to this report:</b> Appendix 1 - Proposed new hourly charging rates Appendix 2 - Proposed new charging rates for property/planning transactions		

## **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) for a period of 4 years.

## **2 RECOMMENDATION**

The Cabinet Member is asked to approve the following recommendations: -

- 2.1 The fees and charges for specified services - as set out in Appendix 1 and Appendix 2 – the transaction fees and costs for property and planning. These charges will be reviewed annually by the Head of Legal & Democratic Services & Monitoring Officer, who will continue to review in light of the UK Consumer Price Index (“CPI”) and amend on an increase only basis from 1<sup>st</sup> June 2024 – to 31<sup>st</sup> May 2028 [the intervening period].
- 2.2 Any marked economic and/or budgetary change negatively impacting on Service fees and charges during this period will be reported back to the relevant Cabinet Member.

## **3 THE REPORT**

- 3.1 Unlike statutory fees and charges Local Authorities are not constrained in how they calculate and apply fees and charges for discretionary services they provide.

This means that they can include the full cost of all aspects of service provision and invest monies received in Council services by the levy of charges. The Service last reviewed its fees and charges in July 2023 by the Head of Legal & Democratic Services & Monitoring Officer Michael Hewitt. In light of the ongoing financial pressures facing the Council the Service intends to increase its schedule of fees and charges in accordance with CPI from 1<sup>st</sup> June 2024 at an average of 4% and review these annually on an upwards only basis until and including 31<sup>st</sup> May 2028 over a 4-year period.

- 3.2 The current forecasted average rate of CPI for the UK in 2024 is calculated at 4% meaning that the standard hourly rate charged to external parties is proposed to increase from £203 to £211 p/hr (all quoted figures in Appendix 1 are rounded up/down to the nearest pound). Appendix 2 shows the costs of property and planning transactions broken down.
- 3.3 The majority of Service income remains dependent upon property transactions and is generated through recovery of Service costs from tenants of the Council's Commercial Estate and any developer funded work. There has also been an increase in recovery of legal costs from prosecution cases.

#### **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. EQUALITIES**

- 7.1 The proposed fees do not directly impact on Equalities and no Equality Impact Assessment is required.

#### **8. CLIMATE CHANGE**

- 8.1 The proposed fees do not impact directly on climate change.

#### **9. OTHER OPTIONS CONSIDERED**

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

## 10. CONSULTATION

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

<b>Contact person</b>	Michael Hewitt, Monitoring Officer: 01225 395125
<b>Background papers</b>	None
<b>Please contact the report author if you need to access this report in an alternative format</b>	

## APPENDIX 1

### FEE CHARGING RATES – 2024/2025

GRADE	NATIONAL 2 LEVEL	SRA EXTERNAL HOURLY RATE - CURRENT	POSITION	EXTERNAL HOURLY RATE RECHARGE CURRENT 2023	EXTERNAL HOURLY RATE New 2024 PROPOSED +4% CPI Rounded up/down figures	INTERNAL HOURLY RATE - CURRENT	INTERNAL Guideline Hourly Rate (GHR) PROPOSED +4% CPI Rounded up figures
A	Solicitors and legal executives with over 8 years' experience	272.00	Team Leader	£203.00	£211.12 Rounded down to £211.00	121.00 Grade 12	[121.00x 4%=4.84 rounded up] = <b>£126.00</b>
B	solicitors and legal executives with over 4 years' experience	233.00	Deputy Team Leader	£203.00	£211.12 Rounded down to £211.00	99.00 Grade 11	[99.00 x 4%= 3.96 – rounded up]= <b>£103.00</b>
C	Other solicitors or legal executives and fee earners of equivalent experience	189.00	Senior Solicitor/ Solicitor/ Legal Executive	£189.00	£189.00	77.00 Grade 8-10	[77.00x4%= 3.08+77 rounded down]= <b>£80.00</b>
D	Trainee solicitors, paralegals and other fee earners	134.00	Trainee Solicitors, paralegals and Support Staff	£134.00	£134.00	66.00 Grade 4-7	[66.00x 4%=2.64+66 rounded up] <b>£69.00</b>

**APPENDIX 2**

**LETTINGS/SURRENDERS/SALES**

<u>Transaction</u>	<u>Basic Fee inclusive of 4% CPI Increase [rounded up or down to nearest £]</u> Plus VAT (if applicable) & Disbursements (Land Registry etc.) & Notice Fee (£50 or as stated in Lease)	<u>Deed of Guarantee from 3<sup>rd</sup> Party</u>	<u>Rent Deposit Deed</u>	<u>Bank Guarantee</u>	<u>Change of Use</u>	<u>Deed of Variation</u>
Consent to Assignment/Transfer	<b>£1,107</b> inc. Letter of Consent, AGA/Deed of Covenant (as appropriate, depending upon status of Lease pursuant to 1995 Covenants Act)	£211 p/hr	£211 p/hr	£211 p/hr	£211 p/hr	£211 p/hr
Consent to Underletting of <i>Whole within</i> Landlord and Tenant Act 1954	<b>£1,402</b> inc. Letter of Consent, Deed of Covenant & Review of Underlease	£211 p/hr	N/A	N/A	£211 p/hr	£211 p/hr
Consent to Underletting of <i>Whole excluded</i> from Landlord and Tenant Act 1954	<b>£1,449</b> inc. Letter of Consent, Deed of Covenant, Review of Underlease & scrutiny of Exclusion	£211 p/hr	N/A	N/A	£211 p/hr	£211 p/hr
Consent to Underletting of <i>Part within</i> Landlord and Tenant Act 1954	<b>£1,466</b> inc. Letter of Consent, Deed of Covenant, Review of Underlease & Consideration of Plan/Rights/Reservations	£211 p/hr	N/A	N/A	£211 p/hr	£211 p/hr
Consent to Underletting of <i>Part excluded</i> from Landlord and Tenant Act 1954	<b>£1,528.80</b> inc. Letter of Consent, Deed of Covenant, Review of Underlease, Consideration of Plan/Rights/Reservations & scrutiny of Exclusion	£211 p/hr	N/A	N/A	£211 p/hr	£211 p/hr
Deed of Variation of <i>Unregistered</i> Lease	<b>£1,449</b> 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	<b>£1,449</b> 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	<b>£1,253</b> 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	<b>£1,402</b> inc. drafting Licence (especially reinstatement obligations) & reviewing Plan(s)/Specification	N/A	N/A	N/A	N/A	N/A
Grant of Lease <i>within</i> Landlord and Tenant Act 1954	<b>£4,671</b> inc. drafting Lease & Replies to CPSE	£211 p/hr	£211 p/hr	£211 p/hr	N/A	N/A
Grant of Lease <i>excluded from</i> Landlord and Tenant Act 1954	<b>£3,358</b> inc. drafting Lease, serving Exclusion Notice, Preparing Declaration/Statutory Declaration & Replies to CPSE	£211 p/hr	£211 p/hr	£211 p/hr	N/A	N/A
Grant of Lease with Agreement for Lease <i>within</i> Landlord and Tenant Act 1954	<b>£3,635</b> inc. drafting Agreement for Lease, drafting Lease & Replies to CPSE	£211 p/hr	£211 p/hr	£211 p/hr	N/A	N/A
Grant of Lease with Agreement for Lease <i>excluded from</i> Landlord and Tenant Act 1954	<b>£3,884</b> inc. drafting Agreement for Lease, drafting Lease, serving Exclusion Notice, Preparing Declaration/Statutory Declaration & Replies to CPSE	£211 p/hr	£211 p/hr	£211 p/hr	N/A	N/A
Surrender of Lease	<b>£1,505</b> 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	<b>£1,646</b> 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	<b>£1,879</b> 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)	<b>£4,678</b> inc. drafting Contract, Replies to CPSE, Replies to Requisitions & approving Transfer	N/A	N/A	N/A	N/A	N/A

Sale of Land (Registered Part)	<b>£3,508</b> 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)	<b>£3,508</b> 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)	<b>£3,763</b> inc. drafting Contract, Replies to CPSE, Replies to Requisitions & approving Transfer (inc. reservations/rights)	N/A	N/A	N/A	N/A	N/A
<b>Other</b>						
STANDARD HOURLY RATE FOR ALL WORK excluding S106 work	£211 p/h					
PLANNING AGREEMENTS Section 106 – HOURLY RATE All work connected with Planning Agreements including variations, releases, supplementary agreements etc	£224 p/h					