

Single Member Cabinet Decision

Executive Forward Plan Reference	E3550
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Fees & Charges - Legal Services

Decision maker/s	Cllr Mark Elliott Cabinet Member for Resources
The Issue	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.
Decision Date	20th June 2024
The decision	The Cabinet Member agrees and approves the fees and charges for specified services - as set out in Appendix 1 and Appendix 2 [Appendices follow the end of this Report] – 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 st June 2024 – to 31 st May 2028 [the intervening period].
Rationale for decision	<p>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 it 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 1st June 2024 at an average of 4% and review these annually on an upwards only basis until and including 31st May 2028 over a 4-year period.</p> <p>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.</p> <p>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.</p>
Financial and budget implications	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.

	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.
Issues considered	Other Legal Considerations - 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.
Consultation undertaken	Leader of the Council Cllr Kevin Guy and Section 151 Finance – Andy Rothery
How consultation was carried out	Providing the report and attachments
Other options considered	Not Applicable
Declaration of interest by Cabinet Member(s) for decision:	None
Any conflict of interest declared by anyone who is consulted by a Member taking the decision:	None/not applicable

Name and Signature of Decision Maker/s	Councillor Mark Elliott Cabinet Member for Resources Bath and North East Somerset Council
Date of Signature	20 June 2024

Subject to Call-in until 5 Working days have elapsed following publication of the decision

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] = £126.00
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]= £103.00
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]= £80.00
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] = £69.00

APPENDIX 2

LETTINGS/SURRENDERS/SALES

<u>Transaction</u>	<u>Basic Fee inclusive of 4% CPI Increase [rounded up or down to nearest £] Plus VAT (if applicable) & Disbursements (Land Registry etc.) & Notice Fee (£50 or as stated in Lease)</u>	<u>Deed of Guarantee from 3rd 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	£1,107 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	£1,402 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	£1,449 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	£1,466 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	£1,528.80 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	£1,449 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	£1,449 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	£1,253 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	£1,402 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>	£4,671 inc. drafting	£211 p/hr	£211 p/hr	£211 p/hr	N/A	N/A

Landlord and Tenant Act 1954	Lease & Replies to CPSE						
Grant of Lease <i>excluded from</i> Landlord and Tenant Act 1954	£3,358 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	N/A
Grant of Lease with Agreement for Lease <i>within</i> Landlord and Tenant Act 1954	£3,635 inc. drafting Agreement for Lease, drafting Lease & Replies to CPSE	£211 p/hr	£211 p/hr	£211 p/hr	N/A	N/A	N/A
Grant of Lease with Agreement for Lease <i>excluded from</i> Landlord and Tenant Act 1954	£3,884 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	N/A
Surrender of Lease	£1,505 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	N/A
Agreement to Surrender & Surrender of Lease <i>excluded from</i> Landlord and Tenant Act 1954	£1,646 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	N/A
Agreement to Surrender & Surrender of Lease <i>within</i> the Landlord and Tenant Act 1954	£1,879 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	N/A
Sale of Land (Registered Whole)	£4,678 inc. drafting Contract, Replies to CPSE, Replies to Requisitions & approving Transfer	N/A	N/A	N/A	N/A	N/A	N/A
Sale of Land (Registered Part)	£3,508 inc. drafting Contract, Replies to CPSE, Replies to Requisitions & approving Transfer (inc. reservations/rights)	N/A	N/A	N/A	N/A	N/A	N/A

Sale of Land (Unregistered Whole)	£3,508 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)	£3,763 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	£211 p/h					
PLANNING AGREEMENTS Section 106 – HOURLY RATE All work connected with Planning Agreements including variations, releases, supplementary agreements etc	£224 p/h					