

Report to Finance and Performance Management Overview and Scrutiny Panel



Date of Meeting: 1 June 2006

Portfolio: Finance, Performance Management and Corporate Support Services

Subject: Local Land Charges – Personal Searches, Budget and Performance

Officer contact for further information: Colleen O'Boyle

Committee Secretary: Adrian Hendry

Recommendations/Decisions Required:

To note the current position with regard to the income generated from Local Land Charge Searches and Personal Searches, current performance in respect to standard searches, and actions taken to address the current situation.

1.0 Background

- 1.1 The Scrutiny Panel has previously requested an explanation of the ongoing and anticipated reduction in the level of income generated from Local Land Charge search fees. This report also highlights the increased numbers of personal searches being undertaken by Council and nationally, and informs Members of current performance in relation to standard search responses and the impact of the Planning and Local Land Charges computer system, and advises the Panel of action taken to address these issues.
- 1.2 The table below illustrates the levels income generated from searches over the last five years and the estimate for 2006/07:

	2001/02	2002/03	2003/04	2004/05	2005/06	2006/07 Estimate
Total Expenditure	262,962	273,348	338,437	548,471	385,387	406,900
Total Income	477,614	469,811	506,373	443,507	378,165	384,380
Net Surplus (Deficit)	214,652	196,463	167,963	(14,964)	(7,222)	(22,520)

- 1.3 There are currently two ways for homebuyers to obtain necessary information when purchasing a property, these are an official Local Land Charges search and a personal search:

The Official Local Land Charges Search

- 1.4 An official Local Land Charge Search is usually submitted to the Council by Solicitors on behalf of their client when a property is purchased or re-mortgaged.

- 1.5 The basic search comprises of two statutory forms, the LLC1 Certificate and form CON29. The LLC1 Certificate discloses any entries held on the Local Land Charge Register. The CON 29 Enquiry Form is used to obtain information specifically held by the Local Authority, relating to properties within their District, such as the planning history, any outstanding Building Control or Environmental Health matters affecting the property and whether a road is a publicly maintainable highway.
- 1.6 The official standard Local Land Charges search provides a comprehensive response to all standard search enquiries using records/documents held by the authority and Essex County Council, although not all of the information on which search responses are based is publicly available at the present time. The Council can set its own fees for searches, and currently charges £120.00 for this service.

Personal Search

- 1.7 A personal search is a search of the Local Land Charges Register carried out in accordance with the Local Land Charges Act 1975 and the Local Land Charges Rules 1977 as amended. Section 8 of the 1975 Act allows any person to search the Local Land Charges Register on payment of the prescribed fee, which is currently set by the Government at £11.00 per parcel of land. In addition, but quite separate from the Local Land Charges Act requirement, any person is entitled by law to inspect free of charge any records open for public inspection held by a local authority. Such information refers to registers held within for example Environmental Services and Planning Services.
- 1.8 The two methods of search do not produce exactly the same results. Furthermore, whilst the Council is entirely responsible for the accuracy of responses that it provides to official Local Land Charge searches, the local authority is not responsible in any way for the accuracy or quality of the work carried out by agents or individuals who carry out a personal search.

2.0 Increase in Personal Searches

- 2.1 Over recent years there has been a marked increase in the number of personal searches undertaken by commercial companies. Originally personal searches were conducted only for urgent and exceptional reasons, but this pattern has changed. The table below shows the trends in personal searches over the last five years:

	2001/02	2002/03	2003/04	2004/05	2005/06
Personal Searches over the last five years	396	731	871	871	1173
Official Searches over the last five years	4442	4309	4022	3388	3396

- 2.2 There are a number of reasons for the increase in the levels of Personal Searches, which is a national trend affecting a majority of councils:

Speed

- 2.3 Until 31 March 2006 Best Value Performance Indicator (BVPI) 179 measured the percentage of standard searches returned within ten working days. As part of the Best Value service review of Local Land Charges the Council's target for BVPI 179 was set at 86% and performance over the last five years is shown in the following table:

	2001/02	2002/03	2003/04	2004/05	2005/06
BVPI 179 Percentage of Standard Searches returned within 10 working days	78.0%	29.2%	95.3%	60.6%	52.5%

- 2.4 As can be seen, the target is clearly not being met at a time when most councils are achieving between a 98% and 100% turn-round time within the required ten day period. The current level of performance therefore presents the personal search option as an attractive alternative to the official search.
- 2.5 Although BVPI 179 was discontinued from 1 April 2006, the turn-round time for official searches remains important as the speed of performance affects the competitiveness of the in-house service. The Home Information Pack (HIP) will be introduced on 1 June 2007 and several large providers have already indicated that they will not consider using anything other than an electronic search returned within five working days or less.
- 2.6 The factors affecting the turn-round time for official searches are analysed later in this report. However, members should be aware that the increase in personal searches is a national trend affecting even those councils with a two to three day turn-round time for official searches, which suggests that speed of response is therefore not the entire answer.

Change in Mortgage Company Attitudes

- 2.7 Until approximately three years ago, personal searches were not acceptable for anything other than a cash sale for a property, and mortgage companies would not accept a personal search. In recent times lenders have changed their policy and are tending to accept a personal search backed by an indemnity policy, which has clearly had a major impact on the popularity of personal searches.

Cost

- 2.8 As previously stated, the Council currently charges £120.00 for a full Local Land Charges Search, compared with the statutory fee for a personal search of £11.00, to which the Council adds a photocopying charge of £4.00.
- 2.9 At present a personal search is much cheaper than an official search and this is undoubtedly a significant factor in the increased popularity of personal searches. Unfortunately however, the ultimate consumer (i.e. the property purchaser) may not be receiving the cost saving from undertaking a personal search, as in essence the Personal Search Agency pays £11.00 (or £15.00 in the Council's case), and is then likely to charge approximately £100.00 to the purchaser's solicitor, thereby making approximately £85.00 on each transaction, whilst undercutting the local authority at the same time. The consumer is therefore

making a negligible saving (in the context of the cost of a house purchase) whilst profit is being made by the commercial search agencies. This discrepancy in charge levels is being considered by the Department of Communities and Local Government, which is investigating proposals to charge a fee that properly reflects the actual cost of maintaining the Local Land Charges Register and for providing the statutory information required by searches.

- 2.10 Property purchases using personal searches receive a search of the publicly available registers backed by an indemnity policy, not a full local authority Local Land Charges Search, for a cost saving likely to be approximately £20.00, although of course most purchasers a house will be completely unaware of the difference.

3. Factors affecting turnaround times

- 3.1 Information for the CON 29 Enquiry Form relating to matters such as planning history, outstanding Building Control or Environmental Health matters affecting the property and whether a road is a publicly maintainable highway, is currently obtained manually from the relevant service area and Essex County Council. The major factor that adversely affects the Council's turnaround times for standard searches relates to delays on the part of other internal services and external agencies to respond to search enquiries that cannot be dealt with by the Local Land Charges Section.

- 3.2 At the request of the Joint Chief Executive (Resources), an investigation was recently conducted by a team from the ICT Department into the reasons for the current level of performance in responding to standard searches, which has concluded that the following points appear to be the major cause of delays in providing search information, which can presently take between eight and ten days:

- **Essex County Council Highways Department** - There is no Service Level Agreement in place with the County Council for the provision of search responses. Since the withdrawal of the Highways Agency, search enquiries are currently posted on a daily basis to the Area Highways Office in Harlow. Search responses are returned in batches, not on a daily basis, similarly by post from the Area Highways Office; and
- **Environmental Services** - There is similarly no Service Level Agreement in place with the Head of Environmental Services for the provision of search responses. Search turnaround has traditionally been very good (approximately 2 days), although since the introduction of the Council's new waste collection arrangements, staff that usually deal with search enquiries have had to give priority to dealing with waste collection enquires.

- 3.3 The performance of other internal services in responding to search enquiries is acceptable and can be more easily monitored/controlled by the Local Land Charges Section.

- 3.4 The purpose of drawing these issues to members' attention is to acknowledge that while resourcing issues in other areas are understood, they still contribute to the delay of search replies. The Council pays Essex County Council £22.00 per search (£77,000 per annum) for a service that is both slow and erratic, which is the same cost as other Essex local authorities who are receiving a five-day or better turn round.

- 3.5 Clearly overall performance will not improve until all of the individual components that make up a local authority search are replied to efficiently. The full report of the ICT investigation is attached as Appendix 1.

4. Local Government Association – Alert to Councils

- 4.1 Further evidence that the impact of Local Land Charges is a national rather than a local issue has come from the Local Government Association who have alerted all local authorities to complete a questionnaire that they and the Office of Fair Trading have circulated in relation to the property search market. The questionnaire is a response to claims from the commercial personal search organisations that councils are abusing their dominant market position by restricting and denying access to information needed by homebuyers. This Council has replied to the questionnaire. In the same alert, the Local Government Association have advised Councils to brief their members on the following points:

- The current system allows for personal searches of the Local Land Charges Register at a fee of £11.00 whereby individuals can carry out a limited search on their own behalf without paying the authority the full fee to carry out a more comprehensive search for them. This nominal sum contributes towards the cost of maintaining the information and providing the service to the customer;
- Whilst Council's understand the rationale of offering such a fee for genuine personal searches the facility appears to be increasingly used by commercial organisations paying the same £11.00 as private individuals and charging the consumer a much higher price for the information;
- There are important consumer protection issues here if consumers are not fully informed about the type of search their conveyancer has commissioned (£11.00 fee only covers a limited statutory search) and the image of local government can be tarnished by complaints about searches which have, in fact, been carried out by other organisations;
- As the volume of commercial searches increases there can be knock on effects on Council Tax budgets. Calculations in Northamptonshire suggest the activity of commercial search company operators adds between 2% and 10% to the district council tax bills; and
- Councils are investing substantially in computerised systems in order to improve the standard and quality including speed of the service they offer.

5. Planning and Local Land Charges Computer System

- 5.1 The Local Land Charges budget for the new integrated system over the last five years and the estimate for 2006/07 is as follows:

	2001/02	2002/03	2003/04	2004/05	2005/06	2006/07 <i>Estimate</i>
New Planning & LLC Computer System	35,356	23,890	15,417	56,078	27,883	27,380

- 5.2 The Local Land Charges budget for the new integrated system over the last five years Due to external drivers such as the e-government agenda, which includes receiving and returning searches electronically via the National Land Information Service (NLIS). Local Land Charges staff are currently being seconded to assist in system implementation and the cleansing of data associated to complying with this directive.
- 5.3 The new computer system will eventually hold the spatial data required to automatically respond to the LLC1 and the CON29 enquiries regarding Planning, Building Control and possibly Environmental Health.

6. Action taken

- 6.1 The following action has been taken in respect of turn-round times and cost:
- (a) The Head of Legal, Administration and Estates has reviewed the appointment system for personal search companies. Since July 2005 Local Land Charges have carried out the bare minimum required by law, i.e. a copy of the registrations affecting the land is given to the personal search agent. Thereafter they are given access to the publicly available registers in Planning and Environmental Services and are directed to the Essex County Council Highways office in Harlow in the same way as other any member of the public would be. As a result the Council currently deals with up to 8 personal searches per day, bearing in mind the need to balance resources available, this is justified and complies with the ODPM guidance on personal searches;
 - (b) The Council has replied to an Office of Fair Trading and Local Government Association questionnaire relating to the property search market highlighting the inadequacy of the £11 fee for a personal search;
 - (c) Meetings have been held with those officers in Environmental Services who provide the replies to the searches to discuss:
 - how they can improve on their turn-round time; and
 - moving towards electronically generated replies to searches.
 - (d) Local Land Charges officers have recently attended demonstrations concerning "MyNLIS". This is a NLIS product, which enables searches to be sent to and received from the County Council electronically. At the moment this would only apply to searches submitted by solicitors using NLIS, which is currently only 13.6% of all Searches received:
 - (e) In an attempt to encourage the use by solicitors of the NLIS system Local Land Charge officers have visited all three of the launch days organised by NLIS across Essex to encourage greater use of the local authority search service. In essence, this means solicitors apply to NLIS to automatically send the search enquiry electronically to the relevant local authority and also to the relevant highways authority;
 - (f) At a recent meeting with Essex County Council, which included the Portfolio Holder for Highways and Transportation Councillor Rodney Bass, the resourcing of the Area Highways Office's responses to search enquiries was discussed. Indeed it was indicated that County would be replying

within five days. This is not currently being achieved but officers will continue to press for an improvement.

7. Conclusion

- 7.1 It is clear that the increase in personal searches is having a detrimental impact upon income generated at this and many other councils, but it is equally clear that the turn-round time for searches in this Council is below acceptable standards, although the investigation undertaken by ICT demonstrates that the turn-round time is dictated by the slowest response to search enquiries.
- 7.2 Members are asked to note the current position and the actions taken so far to address current levels of performance.

Reason for decision:

This report is submitted following a previous request of the Scrutiny Panel

Options considered and rejected:

None.

Consultation undertaken:

Finance, Environmental Services and Planning Services.

Resource implications:

Budget/Personnel/Land: Budget outturns/estimates as set out in the report

Community Plan/BVPP reference: None

Relevant statutory powers: None

Background papers: None

Environmental/Human Rights Act/Crime and Disorder Act Implications: None

Key Decision reference: (if required) None