

# REPORT FOR: **CABINET**

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<b>Date of Meeting:</b>	14 September 2010
<b>Subject:</b>	Building Regulations Charging Scheme
<b>Key Decision:</b>	Yes
<b>Responsible Officer:</b>	Stephen Kelly, Divisional Director Planning
<b>Portfolio Holder:</b>	Councillor Keith Ferry, Portfolio Holder for Planning, Development and Enterprise
<b>Exempt:</b>	No
<b>Decision subject to Call-in:</b>	No
<b>Enclosures:</b>	Scheme of Charges No. 8, 2010

## **Section 1 – Summary and Recommendations**

This report sets out the revisions to the Building Regulations charges for Harrows Building Control service. The requirement for a review of charges and publication of a new scheme follows the Governments review of the future of building control services in 2009/10. The Building (Local Authority Charges) Regulations 2010 require the new charging scheme to be in place by 1<sup>st</sup> October 2010.

In addition to proposing a new charging scheme, and given the more dynamic nature of fee setting anticipated as a consequence of the new regulations, this report also seeks approval for the future review, amendment, revocation, and replacement of the charges scheme to be delegated to the Divisional Director Planning, acting in consultation with the Corporate Director of Finance and the Portfolio Holder for Planning, Development & Enterprise.

## **Recommendations:**

Cabinet is requested to:

- a) Agree the London Borough of Harrow Building Regulations Charging Scheme 2010, as outlined in Appendix A.
- b) Delegate the authority to amend, revoke or replace any future London Borough of Harrow Building Regulations Charging Scheme made under the Building (Local Authority Charges) Regulations 2010, to the Divisional Director of Planning, acting in consultation with the Corporate Director of Finance and the Portfolio Holder for Planning, Development & Enterprise.
- c) Revise the Authority's annual schedule of fees and charges to reflect the new London Borough of Harrow Building Regulations Charging Scheme 2010 and subsequent amendments to the scheme with effect from 1 October 2010.

## **Reason: (For recommendation)**

This Authority has a statutory obligation to change the existing building regulations charges scheme in line with the Building (Local Authority Charges) Regulations 2010 by 1<sup>st</sup> October 2010. This scheme and any future amendments should be reflected in the Authority's annual schedule of fees and charges.

The delegated authority to amend, revoke or replace the scheme will allow the Divisional Director of Planning Services to directly make regular adjustments without the delay in seeking Cabinet approval; to prevent excessive under or over recovery of costs incurred, as required under the Building (Local Authority Charges) Regulations 2010.

## **Section 2 – Report**

### **1.0 INTRODUCTION**

- 1.1 The Building (Local Authority Charges) Regulations 2010 came into force on the 1<sup>st</sup> April, 2010 and provide the legal framework for the setting of a new Building Regulations Charging Scheme. Local authorities are authorised to fix, by means of a charging scheme, and to recover their costs for carrying out their main building control functions. The objective of the regulations is to ensure that users of LABC services pay only for the cost of the service.
- 1.2 The regulations therefore apply only to the chargeable elements of the building control service and allow for the setting of plan charges, inspection charges, building notice charges, reversion charges, regularisation charges, and for a new category of chargeable advice. The regulations introduce more flexible charging arrangements but,

together with the associated guidance, require clear and transparent accounting for such charges, and the setting of charges.

## 2.0 **OPTIONS CONSIDERED**

- 2.1 The Council is legally obliged to comply with the new Building (Local Authority Charges) Regulations 2010. In order to comply, there is no option but to replace the existing Building Regulations Charging Scheme with the proposed compliant scheme.
- 2.2 The guidance suggests that regular adjustments to the scheme are likely in order to prevent excessive under or over recovery of costs incurred, as required under the Building (Local Authority Charges) Regulations 2010. In order to prevent excessive use of the Cabinet reporting system and associated delays every time an adjustment is necessary, the option to delegate the authority to amend, revoke or replace the Building Regulations Charging Scheme, to the Divisional Director of Planning acting in consultation with the Corporate Director of Finance and the Portfolio Holder for Planning, Development & Enterprise, is recommended.

## 3.0 **BACKGROUND**

- 3.1 Local Authorities have been authorised to set down scales of fees for the performance of their building control functions since the 1<sup>st</sup> April, 1980. These early fees were made under section 62 (3) of the Health & Safety at Work etc. Act 1974.
- 3.2 Following the introduction of the Building Act 1984, and prescribed fee regulations from 1985 onwards, building regulation fees were extended to include building notice fees, regularisation fees and reversion fees (taking over from approved inspectors). Because the fees were prescribed by central government, this resulted in standardised fees for every local authority in England and Wales.
- 3.3 The Building Act 1984 (Commencement No. 2) Order 1998 and associated Regulations in 1998 required each local authority to prepare and publish a scheme fixing charges for the performance of their building control functions aimed at recovering the cost of the service. The London Borough of Harrow Building Regulations Charges Scheme No. 1 was made on the 1<sup>st</sup> April 1999, and subsequent amending charges schemes have been approved annually since then.
- 3.4 The provisions in the Building Act 1984 and the 1985 Approved Inspectors Regulations (later to be replaced by the Building (Approved Inspectors, etc) Regulations) were made to permit bodies other than Local Authorities to control building work. Registered 'Approved Inspectors' may check and approve controllable building work, and charge unrestricted fees. The introduction of this competition was intended to increase standards and reduce costs.
- 3.5 The NHBC Building Control Services Ltd was the first Approved Inspector to be registered in 1985, but issues with adequate insurance cover delayed the registration of further Approved inspectors until

1997. To date, there are now 72 Approved Inspectors registered with the Construction Industry Council.

- 3.6 While Harrow Building Control has successfully retained over 90% of the local market share (numbers of applications made in the Borough) since competition started, this figure is being eroded each year. Harrow Building Control has found it difficult to compete with Approved Inspectors on larger projects due to the restricted method of calculating charges under the earlier charges regulations. This has allowed Approved Inspectors to determine our charges and undercut them.

#### 4.0 **REQUIREMENTS FOR A REVIEW OF THE CHARGING SCHEME.**

- 4.1 In 2009, the Government published a consultation paper '*Proposed Changes to the Local Authority Building Control Charging Regime*' which took into account the responses received to the previous consultation paper '*The Future of Building Control*'.
- 4.2 This was followed by The Building (Local Authority Charges) Regulations 2010, which came into force on the 1<sup>st</sup> April 2010. The Regulations extend the devolution of building regulation charge setting to local authorities and introduce more flexibility and discretion in order to enable local authorities to relate their charges to the actual costs of carrying out their main building regulation functions.
- 4.3 Alongside this flexibility, new accounting requirements mean that, "taking one financial year with another", income as nearly as possible must equate to the true costs incurred by the authority in carrying out their *chargeable* functions and providing chargeable advice, i.e. to do no more than breakeven and achieve full cost recovery.
- 4.4 The regulations also provide that local authorities are required to set out the accounting treatment of income, costs and any surplus income or deficit in an annual financial statement to be approved by the Section 151 Officer with the necessary financial authority prior to publication. For the first time, Local building control authorities must calculate their charges by relating the average hourly rate of building control officers to the time spent carrying out their building control services in relation to particular building work or building work of particular descriptions.
- 4.5 The requirements of the regulations, alongside the transparency of cost recovery, mean that the Council are able to prepare standard building regulation charges or to determine a charge based upon assessment of each case. In addition charges can also be levied for the provision, after the first hour, of advice in connection with building regulation matters. Provision is also made for further charges/refunds, where the work estimated to be required, proves to have been under or over estimated

#### 5.0 **IMPLICATIONS OF THE REGULATIONS**

- 5.1 The new charging scheme should enable fairer and more transparent setting of charges based upon the principle of cost recovery. By

relating charges to estimates of actual work, and the cost of providing the services, through professional and administrative staff, the fee schedule is able to more closely follow commercial models for estimating and charging for services which should improve the competitiveness of LABC in the marketplace and provide more direct competition with approved inspectors. The emphasis and limitation on authorities set out in the regulations will also provide renewed focus on the removal of unnecessary cost from the service, to ensure that a “competitive” fee is charged.

- 5.2 The implications of the regulations on the “culture” and operation of LABC services is therefore potentially significant. For the service, the emphasis on providing value for money whilst meeting customer needs will become essential principles underpinning the sustainability of the service. Entrepreneurial management and the adoption of “LEAN” principles in the operation of a service will be paramount, if existing market share and income levels are to be maintained.
- 5.3 The introduction of new accounting rules to accompany the changes also however impact upon wider Council services. Based upon the principle of cost recovery only, within the charges scheme, the extent to which broader organizational costs can be covered by the BC service are significantly reduced. Non-chargeable BC activities, notably enforcement and the assessment of certain applications for disabled people together with general enquiries from members of the Public cannot be subsidized by fee income. Equally, wider corporate programme charges, and some SSC’s cannot now be charged to the BC service. These costs will need to be re-assigned and either actively reduced or paid for from other accounts.

## **6.0 SETTING THE REVISED CHARGES**

- 6.1 The Chartered Institute of Public Finance and Accountancy (CIPFA) has produced an amended guidance document (*Local Authority Building Control Accounting Guidance for England and Wales, 2010 edition*) to support the new regulations and to isolate chargeable costs from other building control activities. The London Borough of Harrow Building Regulations Charging Scheme 2010 has been prepared, based on this latest guidance document in association with officers from the finance department.
- 6.2 In accordance with the CIPFA guidance, time sheets have been completed by every Building Control officer to identify the ‘chargeable time’ spent. From the summary of the information captured, a single average chargeable hourly rate has been derived. This chargeable rate has been applied to analysis of the average time taken for specific and consistent areas of work to produce a charge schedule for most common types of development, including householder applications and non-residential works. This allows for a simple fees structure for more commonplace proposals with the ability to apply competitive and tailored risk based estimates for more complex projects, based upon the estimated hours and published hourly rate.

- 6.3 The appended charging scheme, in line with the regulations also provides for both reduced rates for concurrent works and the scope to levy additional charges to reflect significant additional time commitments.

## 7.0 **FINANCE IMPLICATIONS**

- 7.1. The Department for Communities and Local Government in its Explanatory Memorandum to the Building (Local Authority Charges) Regulations 2010 suggests that the impact on local authorities will result in a one-off cost for preparation and training, including adjustment of charging and accounting systems guidance estimated at an average of £3,000 per local authority. It suggests that these costs will be covered by the charges themselves. It also suggests that there will be a “justified” cost to local authorities in terms of reduced unauthorised surpluses (i.e. income over costs) for which it will be difficult to estimate the potential level of reduction at this time.
- 7.2. The revised charging schedules reflect best estimates based upon the existing availability of information and accounting practices. Given that the cost of providing the chargeable elements of the BC service only may be recovered through the scheme, it is expected that more regular reviews of the charging scheme will be required, both to monitor the extent to which changes in assigned costs and the impact of new regulations on development serve to change the hourly rate or the amount of time spent on each job. Moreover, the need to cover costs in providing the service through the charge will require careful and more entrepreneurial approaches to setting charges, especially where risk assessments identify opportunities for variations to the scheme or specifically targeted fees.
- 7.3. To reflect the opportunities provided by the regulations to ensure cost recovery over a reasonable period of time, Local authorities are increasingly delegating the setting of fees to senior officers. The principles and accounting requirements, particularly the requirement for 151 Officer approval of the charging scheme, means that unlike other fees and charges, BC fees can only be established to cover costs, as opposed to generate income. For this reason, the delegation of fee setting to officers is not considered to jeopardise the wider financial control of the administration but rather, makes managers more accountable for managing the service to cover costs in line with the broader objectives for the future of building control.
- 7.4. Given the previous initiatives within Harrows Building Control service and the earlier annualised review of charges in line with recent regulations, Harrows Building control service is already operating efficiently. The services proposed hourly rate of £60.80 is expected to compare favourably with neighbouring authorities and across London. This means that in the case of the scheduled charges, there should be no significant change in the cost of Building Regulations applications for more straightforward proposals.

- 7.5. For income generated from more complex projects, it is, harder to forecast the effects of the new charging regime. The ability to provide a “quote” for such projects based not, as at present, on the value of the project but by using risk based assessments for each project and applying a competitive market rate for officer time represents an opportunity to submit genuinely competitive bids in an area of work that, under the current regime, was routinely lost to the more competitive (and undisclosed) bids provided by Approved Inspectors.

## 8.0 **PERFORMANCE ISSUES**

- 8.1 The current income target set for the building regulations chargeable element of the Building Control Service should be reassessed to reflect the actual cost, in order to comply with the statutory requirements of The Building (Local Authority Charges) Regulations 2010 and associated CIPFA guidance document.
- 8.2 By focusing the performance of the service on cost recovery the regulations require particular focus on meeting customer needs and minimising excessive cost and wastage. These drivers will support broader performance objectives already in place and monitored through a suite of established indicators. The effect of the regulations and the new charging regime is considered to have no material impact upon these indicators.

## 9.0 **ENVIRONMENTAL IMPACT**

- 9.1 It is not anticipated for the proposed London Borough of Harrow Building Regulations Charging Scheme 2010 to have any environmental impact.

## 10.0 **RISK MANAGEMENT IMPLICATIONS**

Risk included on Directorate risk register? Yes

Separate risk register in place? No

- 10.1 In the event that the charging schedule fails to meet the costs of the service, officers would expect to undertake an urgent review of charges and costs in partnership with the Finance team and 151 Officer.

## 11.0 **EQUALITIES IMPLICATIONS**

- 11.1 There are no equalities implications arising from this report save that regulation 4 of the Building (Local Authority Charges) Regulations 2010 outlines the principles of the charging scheme in relation to building work solely required for disabled persons. No building regulation charge can be authorised in relation to providing means of access solely to an existing dwelling occupied as a permanent residence by a disabled person or for the provision of facilities and accommodation (including the provision or extension of a room in limited circumstances) designed to secure the greater health, safety, welfare or convenience of such a disabled person. Similarly, no building

regulation charge can be authorised in relation to an existing building to which members of the public are admitted in similar circumstances as stated above.

11.2 Was an Equality Impact Assessment carried out? No

11.3 The proposed London Borough of Harrow Building Regulations Charging Scheme 2010 has been produced as a result to changes in legislation, and is for the purpose of recovering the cost of the chargeable service. An equality impact assessment was therefore not required as it fairly and only charges the service user for the service they receive.

## 12.0 CORPORATE PRIORITIES

12.1 The proposed London Borough of Harrow Building Regulations Charging Scheme 2010 has been produced as a result to changes in legislation, and is for the purpose of recovering the cost of the chargeable service.

12.2 The proposed scheme remains consistent with the corporate priority to 'Improve support for vulnerable people' where provided for by legislation and allows for more effective financial and operational management in line with the Better Deal for Residents programme.

## **Section 3 - Statutory Officer Clearance**

Name: Kanta Hirani	<input checked="" type="checkbox"/>	on behalf of the Chief Financial Officer
Date: 28 August 2010		
Name: Matthew Adams	<input checked="" type="checkbox"/>	on behalf of the Monitoring Officer
Date: 23 August 2010		

## **Section 4 – Performance Officer Clearance**

Name: Martin Randall	<input checked="" type="checkbox"/>	on behalf of the Divisional Director Partnership, Development and Performance
Date: 20 August 2010		



## **Section 5 – Environmental Impact Officer Clearance**

Name: Andrew Baker



on behalf of the  
Divisional Director  
Environmental Services

Date: 20 August 2010

## **Section 6 - Contact Details and Background Papers**

**Contact:** Gary Peter, Service Manager – Building Control  
Tel: 020 8736 6063, Email: [gary.peter@harrow.gov.uk](mailto:gary.peter@harrow.gov.uk)

### **Background Papers:**

The Building (Local Authority Charges) Regulations 2010,  
CIPFA Local Authority Building Control Accounting Guidance for England and Wales, 2010.

### **Call-In Waived by the Chairman of Overview and Scrutiny Committee**

#### **YES**

[The reason for urgency is due to the statutory time limit for implementation of the new Scheme. The Scheme must be implemented by 1 October 2010 at latest, or the Council will be in breach of the associated legislation. Due to a delay in publishing the legislation and associated guidance, it was not possible to produce the Scheme and report to Cabinet any earlier.]