

WYRE FOREST DISTRICT COUNCIL**CABINET**
20TH JULY 2010**Changes to the Local Authority Building Control Charges Regime**

OPEN	
SUSTAINABLE COMMUNITY STRATEGY THEME:	A Better Environment
CORPORATE PLAN AIM:	Improved Health and Wellbeing
CABINET MEMBER:	Councillor S J M Clee
DIRECTOR:	Director Planning and Regulatory Services
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APPENDICES:	None

1. PURPOSE OF REPORT

- 1.1 To inform Members of proposed changes in the method of setting fees for the Statutory Building Regulation function. The Building (Local Authority Charges) Regulations 2010 (hereafter referred to as the 2010 Regulations) revoke and replace the Building (Local Authority Charges) Regulations 1998 (the 1998 Regulations) and came into force on 1st April 2010. The 2010 Regulations make new provisions authorising local authorities in England and Wales to fix their own charges in a scheme, based on the full recovery of their costs, for carrying out their main building control functions relation to building regulations.
- 1.2 The 2010 Regulations contain a transitional provision which allows Local Authorities to introduce a new charging scheme under these Regulations at any time between 1st April and 1st October 2010. However, all Local Authorities have to introduce a new charging scheme by 1st October 2010. Local Authorities are required to publicise the making of a new (and replacement or amended) charging scheme in their areas at least 7 days before it comes into effect.

2. RECOMMENDATION

Cabinet is recommended to DECIDE:

- 2.1 **That the Local Government Association Model Scheme be maintained as the basis of the Wyre Forest Building Control Scheme of Fees under the Building (Local Authority Charges) Regulations 2010; and**
- 2.2 **That the Director of Planning & Regulatory Services (in consultation with the Director of Resources) be given delegated authority to vary the Wyre Forest District Council fee scales by up to plus or minus 10% if required to do so in order to balance the fee earning account.**

3. BACKGROUND

- 3.1 The Building Act 1984 is the enabling act under which the Building Regulations are made. This legislation came into effect on 1 December 1984. The concept of private sector competition for building control service was also introduced in 1984 since which time local authorities have been obliged to compete with the private sector for building Regulation work on new housing. In more recent years the number of additional competitors has increased, particularly in the commercial sector.
- 3.2 Building Regulations exist to secure the health, safety, welfare and convenience of persons in or about buildings and to conserve the use of energy and water. The current Regulations were made in 2000 and the technical requirements are updated regularly in the form of Approved Documents, British Standards and third party certification.
- 3.3 The Chartered Institute of Public Finance and Accountancy subdivide the Building Control service into fee earning and non fee earning work. This means that two separate cost centres are required for the service.
- 3.4 Building Regulation fees are paid by householders or developers at the time that works are undertaken or when plans are submitted to the authority. The fees charged by local authorities are fixed by central government at a level that is intended to reflect the cost of providing the minimum statutory service required by law. It follows that local authority costs charged to the Fee Earning Account are those that relate solely to the issue of Statutory Building Regulation Notices and the completion of Statutory site inspections. All other costs are charged to the Non Fee Earning Account. There is a requirement that the Fee Earning Account be self financing over any continuous three year period.
- 3.5 In practice, a significant proportion of the work undertaken by Local Authority Building Control is non fee earning and relates to the wider public protection role assumed by public bodies. Certain elements of the Non Fee Earning Account relate to statutory functions for which no fee is payable and in some cases it is possible to recover such costs from the building owner. This account also includes the costs involved in providing a Building Regulation consultancy and advice service that exceeds the legal minimum. The Chartered Institute of Public Finance and Accountancy provide detailed guidance as to the items that may properly be included in the Building Control Non Fee Earning Account.

4. KEY ISSUES

- 4.1 In April 2009 the Government consulted on a package of proposals to change the Local Authority building control charging regime with the aim of introducing more flexibility, accuracy, fairness and transparency into the regime and improving the standards and environment within which Local Authorities and Approved Inspectors operate and complete.
- 4.2 Local Authority Building Control has a national benchmarking standard (the Model Level of Service Document) and this prescribes the framework of service delivery for fee earning work. This common approach suggests that the fees charged by comparable local authorities should be broadly similar. Individual local authorities are expected to follow this standard scheme with the discretion to vary the scheme

rates by plus or minus 10%. The flexibility will enable managers to vary fees to suit local conditions whilst remaining within the national fee structure.

4.3 The 2010 Regulations authorise Local Authorities in England and Wales to fix and recover charges for the performance of their main building control functions relating to building regulations in a charging scheme governed by principles laid down in the Regulations. The Regulations make each Local Authority responsible for setting their own charges and for doing so within the accounting and administrative requirements laid down in the Regulations.

4.4 The 2010 Regulations make a number of modifications and departures to the provisions that were in the 1998 Regulations and provide in particular for the following:

- Local Authorities to be able to charge for carrying out their current five building control chargeable functions and also to charge for providing substantive advice (consisting of more than an hour) relating to those functions.
- A new overriding accounting objective which requires Local Authorities to ensure that “taking one financial year with another” (as opposed to the previous three year rolling period) their charges income as near as possible equates to the costs incurred by the authority in carrying out their chargeable functions (i.e. to breakeven).
- Local Authorities to calculate 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.
- Local Authorities to fix a charge in relation to building work either by reference to standardised charges that they have determined and published in their charging scheme or by making an individual determination.
- Local Authorities to make refunds of charges where they have carried out less work than they have received payment for, and to request supplementary charges where more work has been carried out than they have received payment for.
- Local Authorities to set out in their charging scheme provision for consideration and handling of complaints;

4.5 There is county-wide agreement at officer level that the 2010 Regulations will be adopted with effect from 1st October 2010.

5. FINANCIAL IMPLICATIONS

5.1 The 2010 Regulations will assist local authorities in establishing fees at a level that will cover the costs involved in providing the Statutory Building Regulation service. Overall fee income is dependent upon the level of building activity (which has traditionally been cyclical in nature) and the proportion of the market secured by private sector competitors. This fact is recognised in the new requirements that the Fee Earning Account be self financing year on year, instead of the previous three

year period. The ability to vary fees within and outside the Local Government Association scheme should provide marketing opportunities for the local authority service.

- 5.2 Over the last few years this authority's Building Control Fee Earning account has made small surpluses and are already close to breakeven. Surpluses in 2008/09 and 2009/10 were £1,391 and £2,284 respectively.

6. LEGAL AND POLICY IMPLICATIONS

- 6.1 There are no legal implications arising from this Strategy.

7. EQUALITY IMPACT NEEDS ASSESSMENT

- 7.1 The scale of fees applies throughout the District. There would be no adverse impact in terms of Equality Impact.

8. RISK MANAGEMENT

- 8.1 Failure to adopt the new 2010 Regulations would invalidate the Council's building control function.

9. CONCLUSION

- 9.1 The introduction of the 2010 Regulations makes new provision authorising local authorities to fix their own charges in respect of the Building Regulations, based upon the full recovery of costs for carrying out their main building control functions.
- 9.2 The transitional period between the introduction of the 2010 Regulations allows the Council to introduce a new charging scheme which in line with countrywide proposals will come into effect from 1st October 2010.

10. CONSULTEES

- 10.1 Director of Resources

11. BACKGROUND PAPERS

- 11.1 The Building (Local Authority Charges) Regulations 2010.