

# Cabinet

2 SEPTEMBER 2010

**DEPUTY LEADER  
(ENVIRONMENT &  
ASSET MANAGEMENT)**  
*Councillor Nicholas  
Botterill*

**BUILDING REGULATIONS CHARGING  
SCHEME – NEW REGULATIONS FOR  
CHARGEABLE ELEMENTS OF BUILDING  
CONTROL SERVICES**

**Wards:  
All**

<p><b>HAS A PEIA BEEN COMPLETED? YES</b></p>
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Agreement is required for the introduction of a new Building Regulations Charging Scheme from 1 October 2010, based on the charges regulations as outlined in this report. The new charging scheme must be approved before 1 October 2010 at the latest.

**CONTRIBUTORS:**  
ENV(BTS)  
DFCS  
FCSL  
ADLDS

**Recommendations:**

1. **That the Director of Environment be given delegated authority, in consultation with the Director of Finance and Corporate Services, to:**
  - (a) **set charges within the London Borough of Hammersmith and Fulham Building Regulations Charging Scheme made under the new Building (Local Authority Charges) Regulations 2010.**
  - (b) **amend, revoke or replace any future London Borough of Hammersmith and Fulham Building Regulations Charging Scheme made under the new Building (Local Authority Charges) Regulations 2010.**
2. **That the London Borough of Hammersmith and Fulham Building Regulations Charging Scheme 2010 and any subsequent amendments to the scheme be included in the authority's annual review of fees and charges.**

## **1. THE BUILDING (LOCAL AUTHORITY CHARGES) REGULATIONS 2010**

- 1.1 The Building (Local Authority Charges) Regulations 2010 came into force on 1 April, 2010 giving the Local Authorities a six months period to implement it. These Regulations 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 regulations apply to the chargeable elements of the building control services and allow for the setting of plan charges, inspection charges, building notice charges, reversion charges and regularisation charges and for a new category of chargeable advice. The new regulations introduce a more flexible charging arrangement whereby the charges set should relate to the costs of carrying out the building regulations chargeable service.

## **2. BACKGROUND**

- 2.1 Local Authorities have been authorised to set down scales of fees for the performance of their building control functions since 1 April 1980. These early fees were made under section 62 (3) of the Health & Safety at Work etc. Act 1974.
- 2.2 The original building regulation fees and subsequent amendments related to the passing or rejection of building plans and for the first inspection of building work, and were prescribed by central government.
- 2.3 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 (for taking over unfinished work from approved inspectors). Because the fees were prescribed by central government, it resulted in standardising fees for every local authority in England and Wales.
- 2.4 The Building Act 1984 (Commencement No. 2) Order 1998 brought into operation paragraph 9 of Schedule 9 of the Act on 7 August 1998. This order enabled building regulations to be made authorising local authorities to fix and recover charges in connection with their building regulation functions.
- 2.5 The Commencement No. 2 Order 1998 resulted in the publication of the Building (Local Authority Charges) Regulations 1998, which came into force on 1 April 1999. The regulations, for the first time, required each local authority to prepare a scheme fixing charges for the performance of their building control functions aimed at recovering the cost of the service. The London Borough of Hammersmith and Fulham Building Regulations Charges Scheme No. 1 was implemented on 1 April 1999. Subsequent amending charges schemes have been made since then.

### **3. PROPOSED CHARGES SCHEME**

- 3.1 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*'.
- 3.2 Following responses to the consultations, The Building (Local Authority Charges) Regulations 2010 were laid before parliament on 25 February 2010 and came into force on 1 April 2010. The Council is obliged to make a new charging scheme under the regulations by the 1 October 2010 at the latest.
- 3.3 The Building (Local Authority Charges) Regulations 2010 extend the devolution of building regulation charge setting to local authorities and introduce more flexibility and discretion to enable local authorities to relate their charges to the actual costs of carrying out their main building regulation functions.
- 3.4 A new overriding accounting objective requires local authorities to ensure that "taking one financial year with another" their charges income, as nearly as possible, equates to the costs incurred by the authority in carrying out their chargeable functions and providing chargeable advice, i.e. to break even and achieve full cost recovery.
- 3.5 The regulations also require the accounting treatment of income, costs and any surplus income or deficit in an annual financial statement to be approved by the appropriate local authority officer (Director of Environment) with the necessary financial authority prior to publication. Local 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. The regulations also provide for an increased number of factors which local authorities can take into account in determining the estimated time to be spent on their building control services.
- 3.6 The Council will have the power to determine standard building regulation charges or individually assessed building regulation charges. A charge can now be made for the giving of chargeable building regulation advice. Where charges are made and the amount of work undertaken will be less than originally estimated, a refund will have to be made. If more work is undertaken than originally estimated, a supplementary charge may be made.
- 3.7 An individually determined charge can be made in all cases where there is no standard charge or, where one or more standard charges apply to the work, with the agreement of the applicant.
- 3.8 It is proposed that the London Borough of Hammersmith and Fulham Building Regulations Charging Scheme 2010, made under the Building (Local Authority Charges) Regulations 2010, be authorised to come into effect as of 1 October 2010. The proposal is based on the London District Surveyors Association (LDSA) Model Charging Scheme 2010.

3.9 The new charging scheme should result in fairer charges, helping to avoid under or over charging and the consequent deficits or surpluses arising. The regulations introduce more transparency into the building regulations charging regime to safeguard income. The main effect will be to allow local authorities to more accurately relate their charges to the actual costs in carrying out their main building control functions for individual building projects. The following functions are chargeable:

- (a) the passing or rejection of plans of proposed building work which has been deposited with the London Borough of Hammersmith and Fulham in accordance with section 16 of the Building Act 1984 (as amended).
- (b) the inspection of building work for which plans have been deposited with the London Borough of Hammersmith and Fulham in accordance with the Building Regulation 2000 (as amended) and with section 16 of the Building Act 1984 (as amended)
- (c) the consideration of a building notice which has been given to the London Borough of Hammersmith and Fulham in accordance with the Building Regulations 2000 (as amended)
- (d) the consideration of building work reverting to the London Borough of Hammersmith and Fulham under the Building (Approved Inspectors etc.) Regulations 2000 (as amended)
- (e) the consideration of a regularisation application submitted to the London Borough of Hammersmith and Fulham under regulation 21 of the Building Regulations 2000 (as amended).

3.10 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 Hammersmith and Fulham Building Regulations Charging Scheme 2010 is being prepared based on the latest CIPFA guidance document.

#### **4. PROGRAMME OF WORK**

4.1 The anticipated programme of work is as follows:

	Date:	Year:
Approval (Cabinet) :	02 September	2010
Implementation of new charges:	01 October	2010

#### **5. COMMENTS OF THE DIRECTOR OF FINANCE AND CORPORATE SERVICES**

5.1 The introduction of the new Building Control charging regime modifies the calculation of charges for Building Control Services. The new charges are calculated on the basis of recovering the full cost of the chargeable service and breaking even over a three to five year period. The proposed charges have been

calculated in line with CIPFA guidance for the calculation of these charges. This will have no impact on the budget for this area as we already budget to recover costs for Building Control chargeable works. However, the greater flexibility to modify charges in line with local economic conditions will make it easier to meet these income budget targets.

**6. COMMENTS OF THE ASSISTANT DIRECTOR FOR STRATEGY, PERFORMANCE & PROCUREMENT**

6.1 There are no Strategy, Performance and Procurement issues.

**7. COMMENTS OF THE ASSISTANT DIRECTOR (LEGAL AND DEMOCRATIC SERVICES)**

7.1 Legal and Democratic Services have been consulted in the process and have no comments to make.

**LOCAL GOVERNMENT ACT 2000**  
**BACKGROUND PAPERS**

<b>No</b>	<b>Description of Background Papers</b>	<b>Name/Ext of holder of file/copy</b>	<b>Department/ Location</b>
1.	The Building Act 1984 The Building Regulations 2000 Consultation paper 'Proposed Changes to the Local Authority Building Control Charging Regime'	Jay Jayaweera Ext. 3424	BC/ENV, 6 <sup>th</sup> floor Hammersmith Town Hall Extension, Hammersmith W6 9JU
2.	Consultation paper 'The Future of Building Control' The Building (Local Authority Charges) Regulations 2010 SI 2010 No. 404	Jay Jayaweera Ext. 3424	BC/ENV
3.	Explanatory memorandum to the Building (Local Authority Charges) Regulations 2010.	Jay Jayaweera Ext. 3424	BC/ENV
4.	Department for Communities & Local Government Circular 01/2010, 25/2/2010.	Jay Jayaweera Ext. 3424	BC/ENV
5.	Department for Communities & Local Government Circular 01/2010, 25/2/2010.	Jay Jayaweera Ext. 3424	BC/ENV
6.	LDSA Model Building Regulations Charging Scheme 2010	Jay Jayaweera Ext. 3424	BC/ENV

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