

Members' Library Service Request Form

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Document Title	Section 75 Charges

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REPORT TO: Members' Library Service

MEETING DATE:

BY: Head of Council Resources

SUBJECT: Review of Charges for S75 Agreements

1 PURPOSE

To advise Members of the outcome of a review of charges levied by the Legal service in respect of completion of S75 Planning Agreements.

The revised charges have been approved by the Head of Council Resources in terms of the Scheme of Administration and this report is submitted for the interest of Members, in accordance with Standing Order 3.4(c).

2 RECOMMENDATIONS

- 2.1 Members are asked to note the revised charges for S75 Planning Agreements, as set out in section 3.5.

3 BACKGROUND

- 3.1 In 2010, the Council introduced charges for completion of S75 Planning Agreements by the in-house legal service. At that time, East Lothian Council was one of only two local authorities that did not levy a charge for this service.
- 3.2 At the time charges were introduced, three categories of Agreement were identified, each with their own charge. These were as follows:

Category	Description	Charge
Category 1	Householder applications or Planning Agreements for a financial contribution only (payable in one or two instalments)	£400
Category 2	Planning Agreements for a financial contribution only (payable in three or more instalments) or a combination of financial contribution and other	£750

	conditions	
Category 3	National or Major Developments (as defined in the Town and Country Planning (Scotland) Act 1997) or otherwise complex agreements	£3000

3.3 As it has been six years since the charges were introduced, a review has now taken place to ascertain whether these still adequately reflect the cost to the Council in performing this service.

3.4 The review of charges has been carried out in accordance with the principles set out in the Council's Charging Policy. In particular the following matters were considered:

- Consideration was given to whether or not to change the basis for the charge. However, consultation with developers/applicants has shown that they prefer the certainty of a fixed fee rather than having an unknown fee levied at the end of a transaction.
- One Senior Solicitor currently spends around 65% of her time on this matter and there are administrative overheads to be taken into account.
- Benchmarking was undertaken with other local authorities to ascertain their charges for this service. This showed a mix of practices with many authorities outsourcing this work and requiring developers/applicants to meet the fees of their external legal advisers. Other authorities charge on a 'time and line' basis, keeping a note of all time spent on each transaction and charging an hourly rate for that time at the end of the transaction. Of those that use fixed fees, these varied from £400 to £1500 where only one category was used. For major developments, fixed fees of up to £5000 are charged.
- Experience shows that the S75 Agreements for national and major developments are generally extremely complex and can require intensive legal input for up to six months each. The charges for these are not covering the full cost of that input.

3.5 In light of the foregoing, it has been determined that the charges should be increased as follows:

Category	Current Charge	Revised Charge
Category 1	£400	£450
Category 2	£750	£850
Category 3	£3000	£5000

These revised rates will take effect from 1st April 2016.

4 POLICY IMPLICATIONS

4.1 In seeking to fully recover the costs incurred in providing this service, the new charges comply with the Council's policy that, where a service is provided to only some members of the public, this should not be subsidised by other non-users of the service.

5 EQUALITIES IMPACT ASSESSMENT

5.1 This report is not applicable to the well being of equalities groups and Equality Impact Assessment is not required.

6 RESOURCE IMPLICATIONS

6.1 Financial – It is anticipated that the imposition of the new fees will generate income of £24,000 annually. This will meet the cost of providing this service.

6.2 Personnel - None

6.3 Other - None

7 BACKGROUND PAPERS

7.1 MLS Report of 19th April 2010 – Proposed Fee Charging Arrangements for Planning Agreements

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