

Name of meeting: Cabinet
Date: 24 March 2016

Title of report: Local Authority Searches:
 Proposed Introduction of VAT
 and Launch of New Con29 Search

Is it likely to result in spending or saving £250k or more, or to have a significant effect on two or more electoral wards?	No
Is it in the Council's Forward Plan ?	Yes
Is it eligible for "call in" by Scrutiny ?	Yes
Date signed off by <u>Director</u> & name	Jacqui Gedman - 14.03.16
Is it signed off by the Director of Resources?	David Smith - 10.03.16
Is it signed off by the Assistant Director - Legal & Governance?	Julie Muscroft - 10.03.16
Cabinet member portfolio	

Electoral [wards](#) affected: All
Ward councillors consulted: None

Public or private: Public

1. Purpose of report

To inform Cabinet of a recent decision by Her Majesty's Revenue and Customs (HMRC) to introduce Value Added Tax (VAT) at the standard rate on local authority Con29 searches and to seek approval to pass on the full VAT increase as part of the Con29 search fee.

Also to update Members on a proposed substantial revision of the Con29 search in July 2016 by the Law Society and to seek approval to review and amend fees as appropriate.

2. Key points

2.1 Local authorities (LAs) offer a conveyancing search service to prospective purchasers of land or property. The search comes in two parts. Firstly, an LLC1 search, which is a search of the Council's local land charges register to identify any outstanding charges or restrictions which have been lodged against the property. Secondly, a Con29

search, which is a list of questions, approved by the Law Society, which covers such issues as planning, highways, building control and environmental health.

- 2.2 LA conveyancing searches are currently non-VATable as they have traditionally been viewed by HMRC as a core local government function, rather than a general business activity.
- 2.3 In recent years, an emerging private sector has lobbied HMRC to review this decision, arguing that their presence means that LAs are no longer sole providers of searches, while the market place is distorted as they currently pay VAT.
- 2.4 HMRC has now announced its intention to levy VAT on LA searches at the standard rate (currently 20%). This is to commence from 4 July 2016.
- 2.5 HMRC has further confirmed that this decision will *not* apply retrospectively. Also, it will only apply to the Con29 element of the LA search and not the accompanying LLC1 search. HMRC say this is because the LLC1 is provided under statute, whereas the Con29 is a discretionary business function.
- 2.6 Also on 4 July 2016, the Law Society will replace the existing Con29 search form with a new revised edition. The final draft of the new version has just been released to the trade and features questions on a number of new areas, including the Community Infrastructure Levy, Sustainable Urban Drainage Schemes, Public Rights of Way, and Assets of Community Value.

3. Implications for the Council

- 3.1 Kirklees Council carries out approximately 4,000 searches per year. VAT at 20% will amount to approximately £35,000 per year.
- 3.2 The Council can absorb the VAT within existing budgets or it can pass on the cost to its customers, some of whom will be VAT registered and able to recover this additional expense.
- 3.3 The views of neighbouring authorities have been sought. Most are intending to pass on the increase, the exceptions being those authorities whose prices are currently high and who feel that passing on the increase would make them uncompetitive. The Kirklees search is priced at mid-range for this region.
- 3.4 It is proposed that VAT be added to the Kirklees fee, rather than absorbed, as fees are already set with regards to costs.
- 3.5 The introduction of a revised Con29 in July 2016, will require the Council to take steps to ensure that we are in a position to respond to the additional queries. Officers are already in discussions with relevant departments and our software providers to ensure that we can go live on 4 July 2016.

- 3.6 Search fees are set with regard to costs and the new enhanced Con29 may require additional resources from within the Local Land Charges team to complete. However, it isn't clear at this stage exactly what the full resource implications will be.
- 3.7 Legislation requires that LAs carry out a cost analysis each Spring before setting their search fees and this exercise will complete before the introduction of the new Con29. It is therefore proposed that fees remain at current levels for the year 2016/17 (excepting the addition of VAT and the identification of any unexpected issues during the Spring 2016 cost analysis). Any additional costs associated with the new Con29 will be identified during the Spring 2017 analysis, once the new form and processes have bedded in.

4. Consultees and their opinions

The Council's VAT Officer and Finance department who are supportive of the proposal.

5. Next steps

Subject to confirmation of Cabinet's views, officers will finalise preparations for the introduction of VAT on Con29 searches on 4 July 2016. This includes updating Finance and IT systems and notifying customers.

Officers will continue preparations for the launch of the new Con29 on 4 July 2016. Subject to Cabinet approval, a full review of costs associated with the introduction of the new Con29 will take place during the Spring 2017 cost analysis.

6. Officer recommendations and reasons

It is recommended that the VAT applicable to Con29 search fees, which comes into effect from 4 July 2016 or as otherwise advised by HMRC, be added to the current chargeable fee.

This is due to search fees being set with regards to costs, which means that there is little scope within the budget to absorb the estimated £35,000 per year that VAT will entail. This move is in line with most other local authorities.

It is also recommended that search fees for 2016/17 remain at current levels (excepting the addition of VAT and the identification of any unexpected issues during the Spring cost analysis) as the full impact of the new Con29 is unclear at this stage. A full review of costs will take place in the Spring of 2017 once the new Con29 has been launched and bedded in.

7. Cabinet portfolio holder recommendation

The portfolio holder Councillor Steve Hall, supports the officer recommendations, in that, the VAT applicable to Con29 search fees, which comes into effect from 4 July 2016 or as otherwise, advised by HMRC, be added to the current chargeable fee and other relevant detail as fully laid out, in the recommendations at section 6 above.

8. Contact officer and relevant papers

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Appendix 1 - Proposed search fees from 4 July 2016 following the introduction of VAT at the standard rate of 20%

9. Assistant Director responsible

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**PROPOSED LOCAL LAND CHARGES SEARCH FEES
(Following the introduction of VAT at 20% on 4 July 2016)**

<u>Search Option</u>	<u>Current Charge</u>	<u>Charge inc VAT</u>	<u>Additional Parcel</u>	<u>Additional Parcel inc VAT</u>
Full Search RESIDENTIAL - Comprising a LLC1 & Con29R	£75.00	£82.00	£21.00 (£1 LLC1 & £20 Con29)	£25.00 (£1 & £24)
Full Search COMMERCIAL - Comprising a LLC1 and Con29R	£85.00	£94.00	£21.00 (£1 LLC1 & £20 Con29)	£25.00 (£1 & £24)
Form Con29O question 4	Search not offered		Search not offered	
Form Con29O questions 5 – 21	£7.00 each	£8.40	N/A	N/A
Form Con29O question 22	£14.00	£16.80	N/A	N/A
Administration fee (if questions are independent of full search)	£5.00	£5.00 (NB currently VATable)		
Form LLC1 official search of the register	£40.00	£40.00 (NB not VATable)	£1.00	£1.00
Form Con29R RESIDENTIAL	£35.00	£42.00	£20.00	£24.00
Form Con29R COMMERCIAL	£45.00	£54.00	£20.00	£24.00
Peak District National Park searches ¹	£22.00	£26.40	N/A	N/A

Notes

1. Peak District National Park searches are carried out by the Peak District National Park Authority who also set the fee.