

<b>Committee/Meeting:</b> Cabinet	<b>Date:</b> 8 September 2010	<b>Classification:</b> Unrestricted	<b>Report No:</b>
<b>Report of:</b> Corporate Director <b>Aman Dalvi</b>  <b>Originating officer(s)</b> Peter Hamilton Head of Building Control		<b>Title:</b> Building Control Charges  <b>Wards Affected:</b> All	

<b>Lead Member</b>	Councillor Marc Francis
<b>Community Plan Theme</b>	Great Place to Live
<b>Strategic Priority</b>	

## 1. **SUMMARY**

- 1.1 Councils are authorised to fix charges by means of a scheme to recover costs associated with the performance of functions relating to building regulations and this report recommends the adoption of a new scheme of building regulations charges in accordance with the requirements of the Building (Local Authority Charges) Regulations 2010.

## 2. **DECISIONS REQUIRED**

Cabinet is recommended to:-

- 2.1 Agree the London Borough of Tower Hamlets Building Regulations Charging Scheme No1 2010 in Appendix A
- 2.2 Authorise the Corporate Director Development and Renewal to approve standard charges tables in the proposed charges scheme and to amend, revoke or replace any future London Borough of Tower Hamlets Building Regulations Charging Scheme made under the Building (Local Authority Charges) Regulations 2010.

## 3. **REASONS FOR THE DECISIONS**

- 3.1 The Building (Local Authority Charges) Regulations 2010 authorise local authorities to fix by means of a charges scheme for and in connection with the performance of their functions relating to building regulations.

- 3.2 This report seeks to establish a scheme and the means to ensure that this is regularly reviewed and updated to ensure costs associated with the function are fully recovered.

#### **4. ALTERNATIVE OPTIONS**

- 4.1 The fixing of a charges scheme is mandatory. The Regulations specify the basis on which charges may be determined. For reasons set out in the report it is considered that the proposed scheme best complies with the requirements of the Regulations.

#### **5. BACKGROUND**

- 5.1 Local Authorities have been authorised to set down scales of fees for the performance of their building control functions since the 1st April 1999. 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*'.
- 5.2 Following responses to the consultations, The Building (Local Authority Charges) Regulations 2010 were laid before Parliament on the 25th February 2010 and came into force on the 1st April 2010. The Council is obliged to make a new charging scheme under the regulations by the 1st October 2010.

#### **6. BODY OF REPORT**

- 6.1 The Building (Local Authority Charges) Regulations 1998, which came into force on the 1st April 1999, 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 Tower Hamlets Building Regulations Charges Scheme No.1 was made on the 1st April 1999, and subsequent amending charges schemes have been made since then.
- 6.2 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.
- 6.4 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 breakeven and achieve full cost recovery.
- 6.5 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 appropriate local authority officer 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.

- 6.6 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. But, conversely, if more work is undertaken than originally estimated, a supplementary charge may be made.
- 6.7 An individual determination 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.
- 6.8 The proposed Tower Hamlets Building Regulations Charging Scheme 2010 made under the Building (Local Authority Charges) Regulations 2010 is shown in Appendix A. The proposed Tower Hamlets Building Regulations Charging Scheme 2010 is based on the London District Surveyors Association Model Charging Scheme 2010, which has been adopted as a model scheme in London.
- 6.9 The new charging scheme should result in fairer charges, helping to avoid under or over charging and the consequent deficits or surpluses arising there from. 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.
- 6.10 The building control function is subject to private sector competition in the form of Approved Inspectors and the new charges are set both to recover costs and in order to remain competitive thereby retaining market share.
- 6.11 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 proposed Building Regulations Charging Scheme 2010 has been prepared based on the CIPFA guidance document.
- 6.12 Cost recovery of all competitive activities is covered by the Building Control trading account. All other non-competitive activities such as enforcement, dealing with dangerous structures; administering Approved Inspector regulations (all as set out in the CIPFA guidance document) are covered by the Building Control revenue account.

## **7. COMMENTS OF THE CHIEF FINANCIAL OFFICER**

- 7.1 This report seeks Cabinet approval to agree to the hourly rate to be adopted by the Building Control section in the calculation of its revised charging scheme. This revised scheme is due to come into effect from 1<sup>st</sup> October 2010. The authority has a statutory duty under the Building (Local Authority Charges) Regulations 2010 to adopt the new legislation by this date.
- 7.2 Under the 2010 Regulations, the authority is required to set an hourly rate which is to be used in the calculation of its charging scheme. Guidance on the calculation of this rate has been supplied by the Chartered Institute of Public Finance and Accountancy (CIPFA) and this has been utilised as necessary.
- 7.3 The draft scheme of charges for which approval is sought is included in appendix A and this includes an hourly rate of £75.13 (point 15).
- 7.4 The hourly rate will be incorporated into the calculation of the standard charges to be implemented from 1<sup>st</sup> October 2010 and will be inserted into the schedule (see appendix A) as necessary.
- 7.5 Delegated approval is required by Cabinet to allow the Corporate Director of Development and Renewal to approve the standard charges tables in the proposed charges scheme and in addition to amend, revoke or replace any future London Borough of Tower Hamlets Building Regulations Charging Scheme made under the Building (Local Authority Charges) Regulations 2010.
- 7.6 The budgeted expenditure for the service for 2010/2011 on its trading account activity is set out below and is consistent with previous years:
- |                      |                   |
|----------------------|-------------------|
| Employees            | £1,164,473        |
| Premises             | £139,189          |
| Transport            | £38,152           |
| Supplies & Services  | £138,402          |
| Third Party Payments | £488              |
| Support Services     | £88,621           |
| <b>Total</b>         | <b>£1,569,325</b> |
- 7.7 The 2010 Regulations allow the authority to build into the calculation of its hourly rate, an allowance to provide for any previous year surplus or deficits accrued.
- 7.8 Following previous year on year surpluses, the service incurred a loss during the 2009/10 financial year. This is reported in Note 5 of the recently published annual accounts. After applying the previous accrued surpluses, the residual net deficit of £99,000 was funded from corporate balances and must be repaid as a first call against any future surpluses generated.

- 7.9 It should be noted that the failure to break even or generate a surplus in 2010/2011 will require a further movement on corporate balances which will need to be reflected in future fee planning estimates.
- 7.10 The calculation of the 2010/2011 hourly rate (£75.13) has been calculated based on a total cost of £1,668.325 i.e. the budgeted expenditure of £1,569.325 shown above (paragraph 7.6) plus the required repayment of £99,000 to corporate balances.
- 7.11 The Building Control service maintains a detailed activity based time recording system. Based on this, the total number of productive hours to be used in the calculation is 22,206.
- 7.12 The hourly rate for use in the charging scheme has therefore been calculated as follows:
- |                          |            |                  |
|--------------------------|------------|------------------|
| Target income level      | £1,668,325 | (Paragraph 7.9)  |
| Divided Productive Hours | 22,206     | (Paragraph 7.10) |
| Hourly Rate              | £75.13     |                  |
- 7.13 The hourly rate of £75.13 will only be used to calculate the scheme of charges for Building Control for the trading account activity. There is expected to be no effect on the general fund budget arising from the implementation of the new regulations.
- 7.14 The 2010 Regulations requires for an annual disclosure to be made by the Section 151 Officer (Director of Resources) setting out the expenditure and income received by the service in their trading activity and the treatment of any surplus of deficit accrued/incurred (paragraph 6.5). It is also expected that there will continue to be disclosure of the performance of the trading activity and revenue of the Building Control department in the Annual Statement of Accounts 2010.

## 8. **CONCURRENT REPORT OF THE ASSISTANT CHIEF EXECUTIVE (LEGAL SERVICES)**

- 8.1. Cabinet is asked to agree a new charging scheme for building charges (the Scheme).
- 8.2. The Council is empowered to make a scheme to fix and recover charges by the Building (Local Authority Charges) Regulations 2010, which commenced on 1 April 2010. If Cabinet approves the Scheme, then the Council will have to publish the scheme not less than 7 days before the date on which it is to come into effect.
- 8.3. The functions for which the Council may charge are prescribed in the Regulations and these are correctly reflected in the Scheme.

- 8.4. The overriding principle expressed in the Regulations is that the income derived by the Council from charges should equate as nearly as possible to the costs incurred in performing the chargeable functions. The Regulations specify that charges should be based on an hourly rate at which officer time will be charged and a number of specified factors. The Scheme that has been prepared reflects these requirements.
- 8.5. The Regulations prescribed provisions that schemes must contain in respect of payments, complaints, refunds and supplementary charges. The Scheme is in accordance with these requirements.
- 8.6. It is proposed that a delegation be made to the Corporate Director to amend, revoke or replace the Scheme. This is permissible pursuant to section 14 of the Local Government Act 2000 and paragraph 3.5.1 of the Council's Constitution.

## **9. ONE TOWER HAMLETS CONSIDERATIONS**

- 9.1 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.
- 9.2 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.
- 9.3 The proposed charging scheme reflects the requirements in the Regulations and it is considered that the scheme is consistent with the Council's positive equality duty in respect of persons with disabilities.
- 9.4 The proposed scheme is based on the principle of cost recovery for individual projects thereby eliminating the potential differential impact associated with cross subsidy which is a feature of the current charges Regulations.
- 9.5 Building Control interacts with all parts of the community and provides a service that benefits all individuals that reside, visit or work as well as all businesses and organisations that trade or operate within the Borough. Service information is provided through the Council's website and officers visiting site. Duty officers are available to assist all service users to understand and achieve the minimum standards required by national building regulations.

## **10. SUSTAINABLE ACTION FOR A GREENER ENVIRONMENT**

- 10.1 There are no sustainability implications

## **11. RISK MANAGEMENT IMPLICATIONS**

- 11.1 This scheme of charges has been formulated using historic data to ensure the full recovery of Building Control's competitive costs on a year on year basis.
- 11.2 The scheme will be reviewed quarterly and revised as often as is necessary to ensure that it continues to achieve cost recovery and to fulfil the requirements of the charges regulations.

## **12. CRIME AND DISORDER REDUCTION IMPLICATIONS**

- 12.1 There are no crime and disorder reduction implications.

## **13. EFFICIENCY STATEMENT**

- 13.1 A published charges scheme and schedules together with guidance notes will enable customers to clearly understand the process and to make applications in a form that will maximise administrative and officer efficiency.

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## **14. APPENDICES**

Appendix A – London Borough of Tower Hamlets Building Regulations  
Charging Scheme No1 2010

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### **Local Government Act, 1972 Section 100D (As amended) List of "Background Papers" used in the preparation of this report**

Brief description of "background papers"	Name and telephone number of holder and address where open to inspection.
CLG Consultation on Proposed Changes to the Local Authority Building Control Charging Regime	Peter Hamilton 020 7364 5254