



The *Constitutional Reform Bill* & local land charges

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The Constitutional Reform Bill, which is currently proceeding through Parliament, has been amended to give local authorities in England the power to set local land charge fees. Currently these fees are set centrally.

Christopher Leslie, the Parliamentary Under-secretary of State at the Department of Constitutional Affairs, explained the purpose of the amendment during the Committee Stage of the Bill:

The fifth set of amendments in this group alters the Local Land Charges Act 1975 to give local authorities in England the power to set local land charge fees, but not personal search fees. At present, there is considerable variation between local authorities when it comes to keeping local land charge records. Local land charge fees are set nationally, by the Lord Chancellor. Local fees that reflect a local authority's circumstances will encourage better local accountability, efficiency and transparency, and will be fairer to local authorities and their customers.

Government amendment No. 390 implements one element of the action plan set out in the September 2002 local government White Paper and announced by my noble Friend Lord Rooker during the Committee stage of the Housing Bill. It will allow local authorities to set fees at a level which, taking one year with another, will enable them to recover an amount up to, but not in excess of, the costs incurred by providing local land charge services.

The amendment does not change the position in respect of fees for personal searches, of which a full review will be undertaken before any decision is made. It does not change the position in Wales either, as local land charge fees have been set by the National Assembly for Wales since 31 December 2004.¹

There have been objections to the amendment from within the property industry as outlined by Jonathan Djanolgy during the debate on the amendment:

The Council of Property Search Organisations is the trade association for the property search industry. It, and other providers of property search information, have contacted various hon. Members to explain the difficulties associated with the proposed change.

¹ HC Deb 1 March 2005 c849

The Bill will require each local authority in England and Wales to specify the fees for services relating to local land charges. Such charges are matters of a public nature: they relate to property, and people interested in a property ought to be aware of the associated charges. Matters covered include tree preservation orders, planning obligations, enforcement notices and designation as a conservation area. Details of local land charges can be obtained either through an official search carried out by local authorities in accordance with section 9 of the 1975 Act, or by means of a personal search by an applicant under section 8 of that Act.

The amendment does not apply to personal searches of the register, which the Department for Constitutional Affairs has said will be the subject of a further review. At present, the Lord Chancellor sets the fees for the different types of local land charge searches. The standard fees are £6 for an official search, and £11 for a personal search. The Government have made available draft guidance for proposed new charges.

When setting their own fees, local authorities will have to ensure that, taking one financial year with another, those fees do not exceed the cost of providing the services in question. They will also have to take into account guidance from the Lord Chancellor. The draft guidance made available by the Government covers the calculation of costs, and related matters.

The proposals have developed out of the 1997 review "Report of an Efficiency Scrutiny of Central Consent Regimes for Local Authorities" and the 2001 White Paper entitled "Strong Local Leadership, Quality Public Services". That sounds like a good new Labour tag if ever I heard one.

The hon. Member for South Ribble (Mr. Borrow) introduced a private Member's Bill on this topic last year, but that was withdrawn when the Government announced their intention to bring forward an amendment such as the one under discussion today. The proposals reflect the fact that the cost of providing local land charge services varies considerably between authorities. That variation arises out of the different ways that local land charges registers are maintained. For example, that information may be held electronically or on paper.

A key argument in favour of such a change would be the desirability of devolution from central Government, removing the need for local government to make applications for fee increases and for new central Government orders to be issued. The hope would be, equally, that requiring local authorities to set fees that reflect their own costs would encourage transparency and efficiency. The result ought to be lower charges for consumers.

The Opposition are not opposed in principle to the idea of allowing local authorities to set their own fees in this context. Indeed, my hon. Friend the Member for South Holland and The Deepings (Mr. Hayes) introduced an amendment to that end to the Housing Act 2004. Although that amendment was withdrawn, we still have reservations about the detail and timing of Government amendment No. 390.

If the Government are intent on allowing local authorities to set their own fees, they should go further in requiring local authorities to improve the services that they provide in relation to local land charges. According to CoPSO, some local authorities still take up to eight weeks to produce local land charges searches. If vendors have to provide local search results as part of home information packs from 2007 onwards—we could debate whether they should do so in the first place—that will only add to the importance of ensuring that local authorities can provide an efficient service. Simply allowing local authorities to set fees to cover their costs does not provide an incentive for them to improve services and move swiftly towards the full electronic delivery of property information.

In accordance with the Government's draft guidance, local authorities cannot operate cross-subsidies to keep council tax down generally, to cover the cost of providing personal searches information—of course, that is specifically excluded from Government amendment No. 390—or to cover the costs of holding property information and generally running their local land charges departments. However, that must be seen in the context of some local authorities' very poor track records in providing at-cost services and transparent accounting.

Will local authorities be able to set their fees to subsidise the cost of collecting and storing property information, providing personal search requests or carrying out other council services? Again, how will the Minister encourage poor-service councils to pull up their socks and start delivering value for money?

It is essential that the Government make it clear that the intention behind devolving this power is to reduce costs and increase transparency for the benefit of local land charges customers, not to create a new source of local government revenue on the back of the service that local councils are required to provide by law. Will the Minister please guarantee that there will be a significant reduction in the costs of gaining access to local land charges information as a result of Government amendment No. 390?

I make none those points in relation to local authorities out of a desire to attack local government. On the contrary, I have a great deal of sympathy for the difficulties faced by local authorities under the Government. Let us take local planning departments. Only before Christmas, the Government slipped out their latest stealth tax plans: a huge increase in planning fees charged to the public—up by an average of 39 per cent. from April—while cutting planning delivery grants to local planning departments, so that they see no real increase in their resources.

Perhaps our biggest criticism relates to the timing of Government amendment No. 390. The Office of Fair Trading is presently conducting a market study of the property search industry that is due to report this summer. It is considering how consumers' needs are met and the structure of the property search market, as well as investigating complaints from property search companies about difficulties in gaining access to property information held by local authorities.

The Government have already accepted the need to wait for the study's findings in relation to personal searches. Yet they are still forcing through Government

amendment No. 390 today in relation to official searches, tacked on to a barely related Bill. Bearing it in mind that those proposals have been in circulation for a number of years, my hon. Friends and I suggest that it would be much more sensible to wait the relatively short time until the OFT report is published. That would allow for a single comprehensive review of local property search markets and the role of local authorities.²

Christopher Leslie responded thus:

The fact that the fees are crudely set centrally means that the Department for Constitutional Affairs cannot do anything but approximate what those fees should be. Widely varying methods are used to produce the information requested in exchange for those fees. Localised setting of fees will help, even in a small way, to improve transparency for local government, and it could be a spur to greater efficiency. The hon. Gentleman referred to the labour costs that go into the process of searches and so on and if there is better local accountability, in theory some local residents may query why charges are set at a higher level than in other areas that are more efficient and have lower charges.

There is also scope for local authorities to be innovative in the way in which they deliver information about land. The right hon. Member for Wokingham (Mr. Redwood) asked what is involved. We are talking about searches relating to restrictions and obligations on particular pieces of land or, more generally, inquiries about the status of land and whether it is a conservation area, is subject to enforcement notices, and so on.

Local authorities may want to consider providing information through the internet and other electronic means instead of having a paper-based system. That might be a preferable route, and we should consider transferring the centralised fee-setting arrangements to local authorities without allowing them to make a profit from the arrangements. The Lord Chancellor will be able to issue guidance to local authorities to ensure that they are aware of their obligations under other legislation. The idea is not new. Its genesis dates from as long ago as 1997 and might not have been under the present Administration. I caution hon. Members about that in case they favoured the suggestion at that time.

I hope that I have been able to answer some of the points raised by the hon. Member for Huntingdon. There will be an opportunity for cross-subsidisation because there will not be a profit element. The time has come to give that small amount of extra freedom and flexibility to local government. We are discussing the functions of the Lord Chancellor, and now is the time to make the amendment.³

The full text of the amendment is accessible online at:

<http://www.publications.parliament.uk/pa/cm200405/cmbills/018/cwh0103.283-286.html>

² HC Deb 1 March 2005 cc850-2

³ HC Deb 1 March 2005 c855