

ENVIRONMENT CABINET MEMBER MEETING

Agenda Item 40

Brighton & Hove City Council

Subject:	Building (Local Authority Charges) Regulations 2010: New Building Regulations charging scheme Effective 1 October 2010		
Date of Meeting:	16 September 2010		
Report of:	Acting Director of Environment		
Contact Officer:	Name:	Mike Sansom	Tel: 29-2188
	E-mail:	mike.sansom@brighton-hove.gov.uk	
Key Decision:	No		
Wards Affected:	All		

FOR GENERAL RELEASE

1. SUMMARY AND POLICY CONTEXT:

- 1.1 This report concerns the introduction of a replacement scheme of charges that relate to work controlled under the Building Regulations 2000 and meets the requirements of the Building (Local Authority Charges) Regulations 2010. The main aim is to provide a value for money service for each individual project, that delivers a high level of customer service and can compete on a level playing field with private sector providers. It is a statutory requirement to implement the new scheme of charges by 1 October 2010.
- 1.2 The report recommends the introduction of fixed charges for work of a more common nature and individually negotiated charges for larger projects. Charges will be calculated in line with recently published guidance. (See appendix C)

2. RECOMMENDATIONS

- 2.1 That the Cabinet Member approves the proposal to replace the existing scheme of charges with a new scheme for the Building Regulations chargeable function in accordance with the 2010 Regulations.
- 2.2 That the Cabinet Member authorises the Head of Building Control, in consultation with relevant members, to agree the monetary value of the charges for work outlined in Appendix C (Fees and Charges), following advice from the service accountants.
- 2.3 That the Cabinet Member notes the flexibility contained within the Regulations to vary the scale of charges set depending on the individual circumstances to ensure the service can cover its costs on a project by project basis and help to improve our competitive position with the private sector.

3. RELEVANT BACKGROUND INFORMATION/CHRONOLOGY OF KEY EVENTS:

- 3.1 The Building Regulations service has been operating under Government set fees and charges last revised in 1997. It has been a requirement to run the service as a trading operation but more recently the limitations of the current system have resulted in year on year losses. There has been little discretion to set fees that can recover the cost of the service. This has resulted in losses for some smaller projects and not being competitive for larger projects. The aim was and continues to be that the service should break even over a 3 year period.
- 3.2 Central government recognised the fact that the current system allowed little flexibility to compete fairly with the Private sector. In April 2009, the Department of Communities and Local Government (CLG) consulted on a number of proposals to change the Local Authority Building Regulations charging regime with the aim of introducing more flexibility, accuracy, fairness and transparency and improving the environment within which Local Authorities (LAs) and Approved Inspectors (AI -Private Sector Building Control) operate and compete.
- 3.3 The consultation also included the option of a risk assessment approach to the inspection of building work, as explained in the "*The Future of Building Control Implementation Plan*" published in September 2009. The proposals considered what was needed to make the Building Regulations service more responsive to the needs of industry and consumers in the 21st century and endeavoured to achieve a level playing field between public and private sector providers that ensured a modern, forward thinking service.
- 3.4 The main principles relating to Local Authority Building Regulations charges remain the need to fix charges by means of a scheme, cost recovery of the chargeable Building Regulations work and that the user should pay for the service they receive. However, greater emphasis is now given to the need to relate the charge made to the cost of carrying out the Building Regulations function for each individual building project.
- 3.5 As a result fees for smaller projects will increase marginally but we will have greater flexibility to reduce fees for work of a more significant nature that has historically been carried out by Private Sector Building Control.
- 3.6 It is anticipated that the fee flexibility we will have under the new scheme of fees and charges will attract larger projects to use the service and increase our fee earning potential. It is also anticipated that this will help to address the current losses being experienced.
- 3.7 The guidance states that Local Authorities should continue to make every effort to keep charges at a level that is affordable and does not discourage the use of the service resulting in uncontrolled work taking place. The CLG (Communities and Local Government) anticipates that Local Authorities will seek to determine fees at a level that would only result in a refund or supplementary charge in exceptional circumstances. For example, the time spent by the service may be less than originally charged for and result in a refund. Conversely, if additional work is required to ensure compliance with the Building Regulations an additional charge can be made. Any amendments to the charges would only take place if the time spent exceeded one hour.

- 3.8 It is still the intention of the regulations not to make charges for work that is solely for the benefit of a disabled person i.e. ramped access, provision of disabled wc accommodation.

The main changes in the 2010 Regulations are intended to allow greater flexibility in making charges in order to recover the costs incurred in providing the service and by making the service more competitive. See appendix A for a list of factors and identified charges that can be made.

- (a) The Regulations set out a number of principles that must be followed when calculating charges see appendix B
- (b) A new provision has been added that allows for the scheme of charges to require the payment of a supplementary charge where the Local Authority deems it necessary to engage the services of a specialist or consultant.
- (c) A further new provision requires that the scheme of charges includes details of a complaints procedure. This can be, and your officers propose that it should be, the Council's existing complaints procedure.
- (d) The new scheme of charges must be in place by the 1st October 2010.
- (e) Members are reminded that the Building Regulations function of the service is in direct competition with the Private sector (Approved Inspectors) and it operates within both a legal and financial framework. The City council is required to prepare and publish a "Trading Account" over a rolling three year accounting period and where a surplus is made it should be invested into the delivery of the service. The service must aim to cover its costs but is also not permitted to make a profit/surplus.
- (f) The recent changes to the Charging Regulations will help to improve the competitiveness of the Building Control service and it is hoped will induce more projects involving commercial work to use the service. The new fees and charges will allow the service to compete on a more level playing field and seek to recover more of its costs. The scope to be able to make a supplementary charge to enable the service to engage the services of a specialist or consultant will also help to reduce the costs incurred in employing such services.
- (g) The new scheme of charges has a statutory requirement to be in place from the 1st October. Officers propose to adopt a Scheme of Charges based on the attached schedules as appended at Appendix 'C' to this report, which will contain charges that are broadly similar to our current charges for fixed cost work, with some modification to ensure cost recovery but with greater flexibility where fees relate to work outside the standard charges of a more significant nature.

4. CONSULTATION:

- 4.1 The charges schedules will be subject to consultation with representatives of our main users.

5. FINANCIAL & OTHER IMPLICATIONS:

Financial Implications:

- 5.1 In the past there has been a shortfall in the level of fee earning Building Control income. It is anticipated that the flexibility offered within the new charging regulations will help to address this problem, by enabling competitive tendering for larger projects. In this way, Building Control will be able to increase its fee earning potential and achieve a break even position.

Finance Officer Consulted: Karen Brookshaw Date: 12/08/10

Legal Implications:

- 5.2 The Building (Local Authority Charges) Regulations 2010 prescribe the statutory basis upon which the Council can charge for its building regulation service. A charging scheme compliant with the 2010 Regulations must be in force from the 1st October 2010 in order for the Council to continue charging for this service. The charging scheme outlined within the Report is in accordance with the 2010 Regulations.

Lawyer consulted: Hilary Woodward Date: 12/08/10

Equalities Implications:

- 5.3 The new scheme promotes equality on the basis that service users pay a fair price for the service received. Furthermore, the Regulations will help to improve our competitive position with the private sector. Disabled applicants will not be required to pay if the work being undertaken is solely for their benefit. The intended fees and charges do not have any other equalities issues.
- 5.4 Part of the overall objective is to set fees at a level that does not induce service users to avoid making an application for building work particularly of a minor nature. The new charging system is based on the user paying. Where building work is proposed that is beneficial to people with mobility difficulties and includes work to improve access and facilities, no charge will be made.

Sustainability Implications:

- 5.5 The cost effective delivery of the Building Regulations service provided by Building Control will support the proper enforcement of energy and water conservation regulations in line with government objectives to reduce the level of CO2 emissions.

Crime & Disorder Implications:

- 5.6 Matter considered and no issues identified.

Risk & Opportunity Management Implications:

- 5.7 Potential loss of income if a new scheme of charges in line with the new 2010 regulations is not implemented that does not cover the cost of delivering the service on a project by project type basis. Potential opportunity to increase income in areas traditionally monopolised by Private Sector Building Control particularly for commercial work.

- 5.8 The scheme is designed to be fair and transparent and will be available for inspection at all times. It is aimed at providing a value for money service that can compete fairly with private sector providers and delivers a high quality service that is customer focussed.

Corporate/Citywide Implications:

- 5.9 The proposed charging regime is intended to cover the cost of providing the Building Regulations service and support those building owners and construction professionals, who wish to undertake new developments, or alter existing buildings. The service will be able to undertake its statutory responsibilities to ensure the health, safety, accessibility and sustainability of the built environment

6. EVALUATION OF ANY ALTERNATIVE OPTION(S):

- 6.1 Matter considered and no alternatives identified

7. REASONS FOR REPORT RECOMMENDATIONS:

- 7.1 A new scheme of Fees and charges must be in place by the 1st October that is based on the methodology outlined in the revised CIPFA guidance issued in April 2010. This has resulted in a significant amount of work in identifying costs on a project type basis. The Communities and Local Government department have confirmed that they believe it will take 3 years for Local Authorities to refine the new costings to a point that ensures the enforcement of the Building Regulations in a fair and proportionate way.

SUPPORTING DOCUMENTATION

Appendices:

1. Appendix A: Factors to apply when making charges and Charges functions
2. Appendix B: Principles to be followed when calculating charges
3. Appendix C: Fees and Charges

Documents In Members' Rooms

None

Background Documents

1. The Building (Local Authority Charges) Regulations 1998 Building (Local Authority Charges) Regulation 1998 – LGA Model Scheme CIPFA ‘Building Control Accounting England and Wales’
2. The Building (Local Authority Charges) Regulations 2010 CIPFA “Local Authority Building Control Accounting Fully revised 2nd Edition 2010

