



Executive
14 September 2010

**Report from the Director of
Environment and Culture**

Wards Affected:
ALL

New Building Control Scheme of Charges

1.0 Summary

- 1.1 The Building (Local Authority Charges) Regulations 2010 came into force on the 1st April, 2010 and provide the legal framework for the setting of a new Building Regulations Charging Scheme. Local authorities are authorised to fix, by means of a charging scheme, and to recover their costs for carrying out their main building control functions. The regulations apply to the chargeable elements of the building control service and allow for the setting of plan charges, inspection charges, building notice charges, reversion charges, regularisation charges and for a new category of chargeable advice. The new regulations introduce more flexible charging arrangements whereby the charges set should relate directly to the costs of carrying out the building regulations chargeable service.
- 1.2 The overriding principle is to set charges to recover the costs of carrying out the building regulations chargeable service for individual building projects as nearly as possible. This principle is designed to avoid cross-subsidisation between individual building projects and to provide fairer charges to individual applicants.

Agreement is needed for the introduction of a replacement London Borough of Brent Building Regulations Charging Scheme 2010 from the 1st October 2010, based on the new charges regulations as outlined in this report. Under the transitional provisions contained in the regulations the new charging scheme must be made before the 1st October 2010 at the latest.

2.0 Recommendations

- 2.1 That the London Borough of Brent Building Regulations Charging Scheme 2010 to come into effect on 1st October 2010, as outlined in Appendix A, be agreed.
- 2.2 That the Director of Environment and Culture be given delegated authority to publish, amend, revoke or replace any future London Borough of Brent Building Regulations Charging Scheme made under the new Building (Local Authority Charges) Regulations 2010.

3.0 Detail

- 3.1 Local Authorities have been authorised to set down scales of fees for the performance of their building control functions since the 1st April, 1980. These early fees were made under section 62 (3) of the Health & Safety at Work etc. Act 1974.
- 3.2 The original building regulation fees and subsequent amendments related to the passing or rejection of building plans and for the first inspection of building work, and were prescribed by central government.
- 3.3 Following the introduction of the Building Act 1984, and prescribed fee regulations from 1985 onwards, building regulation fees were extended to include building notice fees, regularisation fees and reversion fees (taking over from approved inspectors). Because the fees were prescribed by central government, this resulted in standardised fees for every local authority in England and Wales.
- 3.4 The Building Act 1984 (Commencement No. 2) Order 1998 brought into operation paragraph 9 of Schedule 9 of the Act on the 7th August 1998. This order enabled building regulations to be made authorising local authorities to fix and recover charges in connection with their building regulation functions.
- 3.5 The Commencement No. 2 Order 1998, resulted in the publication of the Building (Local Authority Charges) Regulations 1998, which came into force on the 1st April 1999. These regulations, 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 London Borough of Brent Building Regulations Charges Scheme No. 1 was made on the 1st April 1999, and subsequent amending charges schemes have been made since then.
- 3.6 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*'.

- 3.7 Following responses to the consultations, The Building (Local Authority Charges) Regulations 2010 were laid before parliament on the 25th February, 2010 and come 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 at the latest.
- 3.8 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.
- 3.9 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.
- 3.10 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 person having responsibility for the administration of the financial affairs of the local authority under section 151 of the Local Government Act 1972.. Local authorities must to calculate their charges by relating the average hourly rate of building control officers to the time spent carrying out their building regulation 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.
- 3.11 The Council will have the power to determine standard building regulation charges or individually assessed building regulation charges. A charge can also 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.
- 3.12 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.
- 3.13 The proposed Brent Building Regulations Charging Scheme 2010 made under the Building (Local Authority Charges) Regulations 2010 is shown in Appendix A and it is proposed that it be authorised to come into effect from the 1 October 2010. The proposed Brent Building Regulations Charging Scheme 2010 is based on the LDSA Model Charging Scheme 2010, which has been adopted as a model scheme in the London Boroughs.

- 3.14 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.
- 3.15 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 Brent Building Regulations Charging Scheme 2010 has been prepared based on the latest CIPFA guidance document.

4.0 Financial Implications

- 4.1 It is estimated that the set up costs relating to the initial setting up of new Building Regulation charging scheme in accordance with the 2010 regulations will be in the order of £3000. This allows for the preparation of the scheme, amendments to documentation and IT systems. Future amendments to the scheme are likely to attract costs of approximately £1500 to £2000. These costs will be covered by the charges themselves.
- 4.2 The local authority are authorised to set charges for building regulation chargeable functions by setting “standard charges” or by “individual assessment” where no standard charge is identified. A number of changes have been made.

These include:

- a) Amendment to charges for new build residential units such that existing standard charges apply up to 20 dwellings and Building regulation charges for larger developments are individually assessed:
- b) retention of a number of existing standard charges in relation to domestic extensions, loft conversions, etc and an increase in the scope of standard charges for larger extensions and for certain commercial works:
- c) creation of standard charges in relation to certain alteration work which will generally be fairer and relate charges more closely to the cost of providing a building regulation function.
- d) amendment to the table of charges based on estimated cost of relevant building work to simplify charging structure and reduce number of charging bands.

e) application of individually assessed charges for projects where no standard charge has been set, where multiple standard charges apply which, when aggregated would result in an excessive charge or where the estimated cost of work exceeds £150k;

f) a new charge for (pre-application) chargeable advice in excess of one hour;

g) new provision for refund of charges or invoicing additional charges, where appropriate,

h) revision to proportion of Plan Charge in relation to Full Plans applications to 40/60 from 25/75 resulting in increased Plan Charge and reduced Inspection Charge. Overall charge remains the same;

i) Increase in Regularisation charges set at 125% of Building Notice Charge to reflect additional costs incurred in dealing with these applications.

- 4.3 It is estimated that the resultant income from these changes will be largely similar to that expected under the previous charging scheme for year 2010/11 although charges should reflect more accurately on a project by project basis and remove elements of cross subsidy. This also assumes that the workload profile remains similar.
- 4.4 Charges have, as far as reasonably practicable, been set to meet the overriding objective and achieve a break even situation on the building regulation account. If however a surplus arises from these charges, CIPFA guidance recommends that this is to be held within an earmarked reserve. Income arising from building regulations charges will be kept under regular review to ensure that a breakeven situation occurs which may result in increase or reduction of charges.
- 4.5 It will be necessary to review availability of resources to accommodate any sustained variation in workload and / or income. A business case will be made to substantiate any variation in resources and / or adjustment of charges.
- 4.6 Since the revised charging scheme will result in more accurate recovery of costs and reduce significant surpluses / deficits, the new scheme may result in a relative increase or decrease in cost of non-chargeable work due to elimination of cross-subsidy between areas of work. At present, it is difficult to estimate the full effect of the new charges and it will be necessary to review financial implications in time for 2011/12 budget making process once we have experience of operating the new charging regime.
- 4.7 The new charges have been produced in accordance with CIPFA guidance and include allowance for overheads and central costs associated with the Building Regulations service.

- 4.8 The revised CIPFA guidance document (*Local Authority Building Control Accounting Guidance for England and Wales, 2010 edition*) should be followed, including the necessity to record officer's time on projects and to highlight chargeable and non-chargeable building regulation costs.

5.0 Legal Implications

- 5.1 The legislative background to charging for building control functions has already been set out in this report.
- 5.2 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.
- 5.3 The key principles relating to building control charges remain the need to fix charges by means of a scheme, full cost recovery and the fact that the user should pay for the actual service that they receive. However greater emphasis is given to the need to relate charges to the cost of carrying out the building control function for individual building projects provided that the framework for this is set out in the charging scheme
- 5.4 Local authorities will continue to be able to amend, revoke or replace any charging scheme that they make under the 2010 Regulations at any time.
- 5.5 The Council has to publish at least 7 days before the new charges come into effect the fact that it has made replaced or amended a charging scheme, and to provide details including the date the scheme or amendment takes effect and the address where it may be inspected. The Council is also required to keep the scheme up to date and make it available for inspection by any member of the public free of charge.

6.0 Diversity Implications

- 6.1 There are no diversity implications arising from this report save that 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. 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.

7.0 Staffing/Accommodation Implications (if appropriate)

None

8.0 Environmental Implications

None

Background Papers

London Borough of Brent Building Control Charging Scheme No 9 (Effective from 1st October 2010)

The Building Act 1984

The Building (Local Authority Charges) Regulations 2010 SI 2010 No. 404

Depart for Communities & Local Government Circular 01/2010, 25/2/2010

Communities & Local Government Circular letter SB/006/010/011, 25/2/2010

CIPFA Local Authority Building Control Accounting Guidance for England & Wales (Fully revised Second Edition 2010)

LABC Model Building Regulations Charging Scheme 2010

Contact Officers

Any person wishing to inspect the above papers should contact Andy Hardy, Building Control, 4th floor, Brent House, 349 High Road, Wembley, Middlesex, HA9 6BZ , telephone 0208 9375476

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Meeting: Executive Date 11/9/10	Version No4 Date 2/9/10
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Appendix A

Brent Building regulations Charging Scheme 9: 2010