

**Department for Environment, Food and Rural Affairs**

Information Rights Team  
Knowledge and Information Management  
Area 1B, Ergon House  
Horseferry Road  
London SW1P 2AL



**Telephone** 08459 33 55 77  
**Website** [www.defra.gov.uk](http://www.defra.gov.uk)

East Staffordshire Borough Council  
Town Hall  
King Edward Place  
Burton upon Trent  
Staffordshire  
DE14 2EB

**By email**

**Date** 25 February 2011

Dear I

**Property Searches**

Thank you for your letter of 8 February. I am sorry for the delay in replying.

The decision to remove charges which had been found to be incompatible with the Environmental Information Regulations 2004 was unavoidable. The government could not ignore the fact that the charges were incompatible with the Regulations.

The Regulations, which implement a European Directive, say that examination of environmental information on site should be free of charge. The relevant regulation is 8(2). It provides that a public authority shall not make any charge for allowing an applicant—(a) to access any public registers or lists of environmental information held by the public authority; or (b) to examine the information requested at the place which the public authority makes available for that examination.

The Local Government Association (LGA) was told on 14 June 2010 that the provision for the prescribed fee for personal searches of the Local Land Charges Register would be



revoked and officials of all three departments concerned (Defra, MoJ and DCLG) met the LGA on 23 June to discuss the impact on local authorities.

Defra has since worked with the LGA on information obtained from local authorities to establish estimates of that impact for feed into interdepartmental discussions of additional funding for local authorities.

In relation to the official searches of the local land charges register, it is now understood that local authorities are able to make a reasonable charge under the EIR for supplying environmental information. This is because the vast majority of the information in the register is environmental. The power to set fees for such official searches under the Local Land Charges Act 1975 is therefore largely redundant and has been so since January 2005.

As to the fees for providing other information, known as the CON 29 search, virtually all of the information in the Con 29 is considered to be environmental. Consequently, local authorities will also need to allow free access to property search records to enable a CON29 to be prepared. They will still be able to charge a fee for providing this information on request, but will need to apply the EIR rules on reasonable costs rather than those in the Local Authorities (Charges for Property Searches) Regulations 2008.

You may be pleased to know that Jonathan Djanogly, Parliamentary Under-Secretary of State at the Ministry of Justice, said in reply to Parliamentary Questions asked by George Freeman MP on 16 September and 7 December 2010 that there should not be any loss of income to local authorities in England in the current financial year [as a result of the revocation of the fee for a personal search of the local land charges register] as the loss will be met by central government. For 2011-12 and in future years the ongoing loss of fees has been taken into account as part of the Spending Review settlement.

The government recognises the need to provide certainty to local authorities as soon as is practicable and I am advised that the Department for Communities and Local Government hope to be in a position to inform local authorities of the government's decision on a new burden payment shortly.

The government is committed to ensuring that new burdens are funded to avoid upward pressure on council tax and this issue is being treated in the same way as any other.

Yours sincerely,

**Direct Line:**

**Email:** [environmentalinformationunit@defra.gsi.gov.uk](mailto:environmentalinformationunit@defra.gsi.gov.uk)

**Department for Environment, Food and Rural Affairs**



**defra**

Department for Environment  
Food and Rural Affairs

Information Rights Team  
Knowledge and Information Management  
Area 1B, Ergon House  
Horseferry Road  
London SW1P 2AL

**Telephone** 08459 33 55 77

**Website** [www.defra.gov.uk](http://www.defra.gov.uk)

Derby City Council  
Saxon House  
Heritage Gate  
Friary Street  
Derby DE1 1AN

**By email**

**Date** 5 January 2011

Dear ....

**Local Land Charges – Revocation of Personal Search Fee**

Thank you for your letter of 16 December.

The decision to remove charges which had been found to be incompatible with the Environmental Information Regulations 2004 was unavoidable. The government could not ignore the fact that the charges were incompatible with the Regulations.

The Regulations, which implement a European Directive, say that examination of environmental information on site should be free of charge. The relevant regulation is 8(2). It provides that a public authority shall not make any charge for allowing an applicant—(a) to access any public registers or lists of environmental information held by the public authority; or (b) to examine the information requested at the place which the public authority makes available for that examination.

The Local Government Association (LGA) was told on 14 June 2010 that the provision for the prescribed fee for personal searches of the Local Land Charges Register would be revoked and officials of all three departments concerned (Defra, MoJ and DCLG) met the LGA on 23 June to discuss the impact on local authorities.



Defra has since worked with the LGA on information obtained from local authorities to establish estimates of that impact for feed into interdepartmental discussions of additional funding for local authorities.

In relation to the official searches of the local land charges register, it is now understood that local authorities are able to make a reasonable charge under the EIR for supplying environmental information. This is because the vast majority of the information in the register is environmental. The power to set fees for such official searches under the Local Land Charges Act 1975 is therefore largely redundant and has been so since January 2005.

As to the fees for providing other information, known as the CON 29 search, virtually all of the information in the Con 29 is considered to be environmental. Consequently, local authorities will also need to allow free access to property search records to enable a CON29 to be prepared. They will still be able to charge a fee for providing this information on request, but will need to apply the EIR rules on reasonable costs rather than those in the Local Authorities (Charges for Property Searches) Regulations 2008.

You may be pleased to know that Jonathan Djanogly, Parliamentary Under-Secretary of State at the Ministry of Justice, said in reply to Parliamentary Questions asked by George Freeman MP on 16 September and 7 December 2010 that there should not be any loss of income to local authorities in England in the current financial year [as a result of the revocation of the fee for a personal search of the local land charges register] as the loss will be met by central government. For 2011-12 and in future years the ongoing loss of fees has been taken into account as part of the Spending Review settlement.

The government recognises the need to provide certainty to local authorities as soon as is practicable and I am advised that Ministers at the Department for Communities and Local Government hope to be in a position to inform local authorities of the government's decision on a new burden payment shortly. An announcement will be made in due course.

The government is committed to ensuring that new burdens are funded to avoid upward pressure on council tax and this issue is being treated in the same way as any other.

Yours sincerely,

**Direct Line:**

**Email:** [environmentalinformationunit@defra.gsi.gov.uk](mailto:environmentalinformationunit@defra.gsi.gov.uk)

**Department for Environment, Food and Rural Affairs**

Information Rights Team  
Knowledge and Information Management  
Area 1B, Ergon House  
Horseferry Road  
London SW1P 2AL



**Telephone** 08459 33 55 77

**Website** [www.defra.gov.uk](http://www.defra.gov.uk)

Nuneaton and Bedworth  
Corporate Services Directorate  
Town Hall  
Nuneaton  
Warwickshire CV11 5AA

By email

27 September 2010

Dear

**Property Searches**

Thank you for your letter of 4 August. I am sorry for the delay in replying.

You asked how the Council has acted unlawfully. The collection of the prescribed fee for a personal search of the local land charges register was unlawful from 1 January 2005 because the information on the local land charges register is overwhelmingly environmental information and the Environmental Information Regulations (EIRs), which implement a European Directive, say that examination of environmental information on site should be free of charge. The relevant regulation in the EIR is regulation 8(2). It provides that a public authority shall not make any charge for allowing an applicant – (a) to access any public registers or lists of environmental information held by the public authority; or (b) to examine the information requested at the place which the public authority makes available for that examination.

Yours sincerely,

**Direct Line:**

**Email:** [environmentalinformationunit@defra.gsi.gov.uk](mailto:environmentalinformationunit@defra.gsi.gov.uk)



**Department for Environment, Food and Rural Affairs**

Information Rights Team  
Knowledge and Information Management  
Area 1B, Ergon House  
Horseferry Road  
London SW1P 2AL



**Telephone** 08459 33 55 77  
**Website** [www.defra.gov.uk](http://www.defra.gov.uk)

Epping Forest District Council  
Corporate Support Services  
Civic Offices  
High Street  
Epping  
Essex CM16 4BZ

By email

**Date** 28 September 2010

Dear

**Property Searches**

Thank you for your letter of 1 September. I am sorry for the delay in replying.

The decision to remove charges which had been found to be incompatible with the Environmental Information Regulations 2004 was unavoidable. The government could not ignore the fact that the charges were incompatible with the Regulations. The Local Government Association (LGA) was told on 14 June 2010 that the provision for the prescribed fee for personal searches of the Local Land Charges Register would be revoked and officials of all three departments concerned (Defra, MoJ and CLG) met the LGA on 23 June to discuss the impact on local authorities.

Defra has since worked with the LGA on information obtained from local authorities to establish estimates of that impact for feed into interdepartmental discussions of additional funding for local authorities. These discussions are nearly complete and we expect the outcome to be communicated to local authorities shortly.

However, there should be no overall cost to local authorities in the current financial year, as the loss of income and repayment of wrongful charges will be met by central government under the new burdens doctrine. For 2011-12 and in future years the ongoing loss of fees will be considered as part of the Spending Review.



The collection of the prescribed fee for a personal search of the local land charges register was unlawful from 1 January 2005 because the information on the local land charges register is overwhelmingly environmental information and the Environmental Information Regulations (EIRs), which implement a European Directive, say that examination of environmental information on site should be free of charge. The relevant regulation in the EIR is regulation 8(2). It provides that a public authority shall not make any charge for allowing an applicant—(a) to access any public registers or lists of environmental information held by the public authority; or (b) to examine the information requested at the place which the public authority makes available for that examination.

You mention that you operate a partially computerised system and that the only way you can give access is by compiling the data into a printed report. The legislation (which is the responsibility of the Ministry of Justice) allows considerable discretion as to the way in which the register is kept. However, section 8 of the Local Land Charges Act 1975 provides that people should be able to carry out a search of a visible and legible view of the register. The revocation of the prescribed fee does not otherwise change the law. In so far as applicants have to peruse paper records to ascertain the local land charges affecting a property that is in the nature of a personal search.

Yours sincerely,

**Direct Line:**

**Email:** [environmentalinformationunit@defra.gsi.gov.uk](mailto:environmentalinformationunit@defra.gsi.gov.uk)

**Department for Environment, Food and Rural Affairs**

Information Rights Team  
Knowledge and Information Management  
Area 1B, Ergon House  
Horseferry Road  
London SW1P 2AL



**Telephone** 08459 33 55 77

**Website** [www.defra.gov.uk](http://www.defra.gov.uk)

Borough of Pendle  
Nelson Town Hall  
Market Street  
Nelson  
Lancashire BB9 7LG

**By email**

**Date** 4 October 2010

Dear

**Property Searches**

Thank you for your letter of 30 September.

The decision to remove charges which had been found to be incompatible with the Environmental Information Regulations 2004 was unavoidable. The government could not ignore the fact that the charges were incompatible with the Regulations.

The increase in the personal search fee from £11 to £22 at the beginning of 2010 was intended to help local authorities cover their costs in providing the personal search of the local land charges register service. It was not appreciated in September 2009, when the Order increasing the fee was made, that the fee for a personal search of the local land charges register was not compatible with the Regulations. However, it was not and the prescription of a fee for this kind of search does not make the fee lawful even though it was believed at that time that the fee was lawful. The inevitable consequence of this is that the fee has been unlawful since January 2005 when the Regulations came into force.

The Regulations, which implement a European Directive, say that examination of environmental information on site should be free of charge. The relevant regulation is 8(2).





It provides that a public authority shall not make any charge for allowing an applicant—(a) to access any public registers or lists of environmental information held by the public authority; or (b) to examine the information requested at the place which the public authority makes available for that examination.

The Local Government Association (LGA) was told on 14 June 2010 that the provision for the prescribed fee for personal searches of the Local Land Charges Register would be revoked and officials of all three departments concerned (Defra, MoJ and CLG) met the LGA on 23 June to discuss the impact on local authorities.

Defra has since worked with the LGA on information obtained from local authorities to establish estimates of that impact for feed into interdepartmental discussions of additional funding for local authorities. These discussions are nearly complete and we expect the outcome to be communicated to local authorities shortly.

However, as Jonathan Djanogly MP, Parliamentary Under-Secretary at the Ministry of Justice, stated in a reply to a written Parliamentary Question by George Freeman MP on 16 September, there should be no overall cost to local authorities in the current financial year, as the loss of income will be met by central government under the new burdens doctrine. For 2011-12 and in future years the ongoing loss of fees will be considered as part of the Spending Review.

In relation to claims for refunds of fees for personal searches of the local land charges register paid in the past, local authorities will need to assess claims as they are made in the light of their own legal advice. As you say, a search agent who has passed on the cost of the fee to its customer might be unjustly enriched by a refund and, if this was the case, would not be entitled to a refund on its own account.

Yours sincerely,

**Direct Line:**

**Email:** [environmentalinformationunit@defra.gsi.gov.uk](mailto:environmentalinformationunit@defra.gsi.gov.uk)

Nobel House  
17 Smith Square  
London SW1P 3JR

Telephone 08459 335577  
Email [helpline@defra.gsi.gov.uk](mailto:helpline@defra.gsi.gov.uk)  
Website [www.defra.gov.uk](http://www.defra.gov.uk)

Wallace Sampson  
Chief Executive

Councillor Dr M Gardner  
Leader

Harrogate Borough Council  
Office of the Chief Executive  
Council Offices  
Crescent Gardens  
Harrogate  
HG1 2SG

From Richard Benyon MP  
Minister for Natural Environment and Fisheries

Dear Sirs,

Thank you for your letter of 2 September to the Secretary of State about the removal of prescribed charges for personal searches of Local Land Charges Registers. I have been asked to reply.

The Government could not ignore the fact that the charges were incompatible with the Environmental Information Regulations 2004 (EIRs), so the decision to remove them was unavoidable. The Local Government Association (LGA) was told on 14 June 2010 that the provision for the prescribed fee for personal searches of the Local Land Charges Register would be revoked. Officials of all three departments concerned (Defra, the Ministry of Justice and the Department for Communities and Local Government) met the LGA on 23 June to discuss the impact on local authorities.

Defra has since worked with the LGA on information obtained from local authorities to establish estimates of that impact, which has fed into interdepartmental discussions on additional funding for local authorities. These discussions are nearly complete, and we expect the outcome to be communicated to local authorities shortly. However, I can say that there will be no cost to local authorities in the current financial year, as the loss of income will be met by Central Government under the New Burdens Doctrine. For 2011-12, and in future years, the ongoing loss of fees will be considered as part of the Spending Review.



Your ref: AB/DM/030689  
Our ref: PO197923/VJ

29<sup>th</sup> September 2010

As sponsor of the EIRs, Defra has taken the lead in trying to ensure local authorities do get a prompt and holistic response on the overall funding issue.

Turning to the fees for providing other information, known as the CON 29 search, virtually all of the information in the Con 29 is considered to be environmental. Consequently, local authorities will also need to allow free access to property search records to enable a CON29 to be prepared. They will still be able to charge a fee for providing this information on request, but will need to apply the EIR rules on reasonable costs, rather than those in the Local Authorities (Charges for Property Searches) Regulations 2008.

The Government expects local authorities themselves to take greater responsibility for moving to more efficient ways of registering charges on land and maintaining land charge registers, as well as for making other environmental information required to support property transactions accessible to the public by electronic means. This would be in line with both the existing duty on all public authorities to make environmental information easily available under the EIRs, and with the Government's commitment to transparency.

PP

**RICHARD BENYON MP**

~~Agreed by the Minister & signed in his~~  
absence.

## Department for Environment, Food and Rural Affairs

Information Rights Team  
Knowledge and Information Management  
Area 1B, Ergon House  
Horseferry Road  
London SW1P 2AL



**Telephone** 08459 33 55 77

**Website** [www.defra.gov.uk](http://www.defra.gov.uk)

Councillor Doreen Stephenson  
Leader  
East Lindsey District Council  
Tedder Hall  
Manby Park  
Louth  
Lincolnshire LN11 8UP

By email

**Date** 28 September 2010

Dear Ms Stephenson

### Property Searches

Thank you for your letter of 1 September. I am sorry for the delay in replying.

The decision to remove charges which had been found to be incompatible with the Environmental Information Regulations 2004 was unavoidable. The government could not ignore the fact that the charges were incompatible with the Regulations. The Local Government Association (LGA) was told on 14 June 2010 that the provision for the prescribed fee for personal searches of the Local Land Charges Register would be revoked and officials of all three departments concerned (Defra, MoJ and CLG) met the LGA on 23 June to discuss the impact on local authorities.

Defra has since worked with the LGA on information obtained from local authorities to establish estimates of that impact for feed into interdepartmental discussions of additional funding for local authorities. These discussions are nearly complete and we expect the outcome to be communicated to local authorities shortly.

However, there should be no overall cost to local authorities in the current financial year, as the loss of income and repayment of wrongful charges will be met by central government under the new burdens doctrine. For 2011-12 and in future years the ongoing loss of fees will be considered as part of the Spending Review.



The collection of the prescribed fee for a personal search of the local land charges register was unlawful from 1 January 2005 because the information on the local land charges register is overwhelmingly environmental information and the Environmental Information Regulations (EIRs), which implement a European Directive, say that examination of environmental information on site should be free of charge. The relevant regulation in the EIR is regulation 8(2). It provides that a public authority shall not make any charge for allowing an applicant—(a) to access any public registers or lists of environmental information held by the public authority; or (b) to examine the information requested at the place which the public authority makes available for that examination.

As claims for refunds must be directed to the authority to which the fee was paid, the Council will have to consider the merits of claims as they are made in the light of its own legal advice.

Yours sincerely,

**Direct Line:**

**Email:** [environmentalinformationunit@defra.gsi.gov.uk](mailto:environmentalinformationunit@defra.gsi.gov.uk)

Nobel House  
17 Smith Square  
London SW1P 3JR

Telephone 08459 335577  
Email [helpline@defra.gsi.gov.uk](mailto:helpline@defra.gsi.gov.uk)  
Website [www.defra.gov.uk](http://www.defra.gov.uk)



Your ref:  
Our ref: PO197736/VJ

Dudley Metropolitan Borough Council  
Council House  
Priory Road  
Dudley  
West Midlands  
DY1 1HF

27 September 2010

From Richard Benyon MP  
Minister for Natural Environment and Fisheries

Thank you for your letter of 1 September to the Secretary of State about the removal of prescribed charges for personal searches of Local Land Charges Registers. I have been asked to reply.

The Government could not ignore the fact that the charges were incompatible with the Environmental Information Regulations 2004 (EIRs), so the decision to remove them was unavoidable. The Local Government Association (LGA) was told on 14 June 2010 that the provision for the prescribed fee for personal searches of the Local Land Charges Register would be revoked. Officials of all three departments concerned (Defra, the Ministry of Justice and the Department for Communities and Local Government) met the LGA on 23 June to discuss the impact on local authorities.

Defra has since worked with the LGA on information obtained from local authorities to establish estimates of that impact, which has fed into interdepartmental discussions on additional funding for local authorities. These discussions are nearly complete, and we expect the outcome to be communicated to local authorities shortly. However, I can say that there will be no cost to local authorities in the current financial year, as the loss of income will be met by Central Government under the New Burdens Doctrine. For 2011-12, and in future years, the ongoing loss of fees will be considered as part of the Spending Review.

As sponsor of the EIRs, Defra has taken the lead in trying to ensure local authorities do get a prompt and holistic response on the overall funding issue.

However, the Government expects local authorities themselves to take greater responsibility for moving to more efficient ways of registering charges on land and maintaining land charge registers, as well as for making other environmental information required to support property transactions, accessible to the public by electronic means. This would be in line with both the existing duty on all public authorities to make environmental information easily available under the EIRs, and with the Government's commitment to transparency.

*Yours sincerely,*

*Richard Benyon*

**RICHARD BENYON MP**

Nobel House  
17 Smith Square  
London SW1P 3JR

Telephone 08459 335577

Email [helpline@defra.gsi.gov.uk](mailto:helpline@defra.gsi.gov.uk)

Website [www.defra.gov.uk](http://www.defra.gov.uk)



Rory Stewart MP  
House of Commons  
London  
SW1A 0AA

Our ref: MC00000197161

From Richard Benyon MP  
Minister for Natural Environment and Fisheries

28<sup>th</sup> Sept '10

Dear Rory,

Thank you for your email of 30 August to Lord Henley enclosing a letter from Kevin Douglas at Eden District Council about the removal of prescribed charges for personal searches of Local Land Charges Registers. I have been asked to reply and apologise for the delay in doing so.

The decision to remove charges which had been found to be incompatible with the Environmental Information Regulations 2004 was unavoidable. The government could not ignore the fact that the charges were incompatible with the Regulations. The Local Government Association (LGA) was told on 14 June 2010 that the provision for the prescribed fee for personal searches of the Local Land Charges Register would be revoked and officials of all three departments concerned (Defra, MoJ and CLG) met the LGA on 23 June to discuss the impact on local authorities.

Defra has since worked with the LGA on information obtained from local authorities to establish estimates of that impact, which has fed into interdepartmental discussions on additional funding for local authorities. These discussions are nearly complete, and we expect the outcome to be communicated to local authorities shortly. However, I can say that there will be no cost to local authorities in the current financial year, as the loss of income will be met by central government under the new burdens doctrine. For 2011-12 and in future years the ongoing loss of fees will be considered as part of the Spending Review.

As sponsor of the Environmental Information Regulations, Defra has taken the lead in trying to ensure local authorities do get a prompt and holistic response on the overall funding issue.



The government expect local authorities themselves to take greater responsibility for moving to more efficient ways of registering charges on land and maintaining land charge registers, as well as for making other environmental information required to support property transactions accessible to the public by electronic means. This would be in line both with the existing duty on all public authorities progressively to make environmental information easily available under the Environmental Information Regulations, and with the government's new Transparency Agenda.

PP

**RICHARD BENYON MP**

Agreed by the Minister +  
signed on his absence

Nobel House  
17 Smith Square  
London SW1P 3JR

Telephone 08459 335577  
Email [helpline@defra.gsi.gov.uk](mailto:helpline@defra.gsi.gov.uk)  
Website [www.defra.gov.uk](http://www.defra.gov.uk)



Our ref: PO197743/VJ

North Warwickshire Borough Council  
The Council House  
South Street  
Atherstone  
Warwickshire  
CV9 1DE

29<sup>th</sup> September 2010

From Richard Benyon MP  
Minister for Natural Environment and Fisheries

Dear

Thank you for your letter of 27 August to the Secretary of State about the removal of prescribed charges for personal searches of Local Land Charges Registers. I have been asked to reply.

The Government could not ignore the fact that the charges were incompatible with the Environmental Information Regulations 2004 (EIRs), so the decision to remove them was unavoidable. The Local Government Association (LGA) was told on 14 June 2010 that the provision for the prescribed fee for personal searches of the Local Land Charges Register would be revoked. Officials of all three departments concerned (Defra, the Ministry of Justice and the Department for Communities and Local Government) met the LGA on 23 June to discuss the impact on local authorities.

Defra has since worked with the LGA on information obtained from local authorities to establish estimates of that impact, which has fed into interdepartmental discussions on additional funding for local authorities. These discussions are nearly complete, and we expect the outcome to be communicated to local authorities shortly. However, I can say that there will be no cost to local authorities in the current financial year, as the loss of income will be met by Central Government under the New Burdens Doctrine. For 2011-12, and in future years, the ongoing loss of fees will be considered as part of the Spending Review.

As sponsor of the EIRs, Defra has taken the lead in trying to ensure local authorities do get a prompt and holistic response on the overall funding issue.

However, the Government expects local authorities themselves to take greater responsibility for moving to more efficient ways of registering charges on land and maintaining land charge registers, as well as for making other environmental information required to support property transactions accessible to the public by electronic means. This would be in line with both the existing duty on all public authorities to make environmental information easily available under the EIRs, and with the Government's commitment to transparency.

ff

RICHARD BENYON MP  
Agreed by the Minister + signed in  
his absence

## Department for Environment, Food and Rural Affairs

Information Rights Team  
Knowledge and Information Management  
Area 1B, Ergon House  
Horseferry Road  
London SW1P 2AL



**Telephone** 08459 33 55 77

**Website** [www.defra.gov.uk](http://www.defra.gov.uk)

Mr Stephen Maddox  
Chief Executive  
Wirral  
Town Hall  
Brighton Street  
Wallasey  
Wirral  
Merseyside CH44 8ED

By email

**Date** 4 October 2010

Dear Mr Maddox

### Property Searches

Thank you for your letter of 25 August. I am sorry for the delay in replying.

The decision to remove charges which had been found to be incompatible with the Environmental Information Regulations 2004 was unavoidable. The government could not ignore the fact that the charges were incompatible with the Regulations.

The increase in the personal search fee from £11 to £22 at the beginning of 2010 was intended to help local authorities cover their costs in providing the personal search of the local land charges register service. I note you are surprised that it was not appreciated in September 2009 that the fee for a personal search of the local land charges register was not compatible with the Regulations. However, it was not and the prescription of a fee for this kind of search does not make the fee lawful even though it was believed at that time that the fee was lawful. The inevitable consequence of this is that the fee has been unlawful since January 2005 when the Regulations came into force.



The Regulations, which implement a European Directive, say that examination of environmental information on site should be free of charge. The relevant regulation is 8(2). It provides that a public authority shall not make any charge for allowing an applicant—(a) to access any public registers or lists of environmental information held by the public authority; or (b) to examine the information requested at the place which the public authority makes available for that examination.

The Local Government Association (LGA) was told on 14 June 2010 that the provision for the prescribed fee for personal searches of the Local Land Charges Register would be revoked and officials of all three departments concerned (Defra, MoJ and CLG) met the LGA on 23 June to discuss the impact on local authorities.

Defra has since worked with the LGA on information obtained from local authorities to establish estimates of that impact for feed into interdepartmental discussions of additional funding for local authorities. These discussions are nearly complete and we expect the outcome to be communicated to local authorities shortly.

As Jonathan Djanogly MP, Parliamentary Under-Secretary at the Ministry of Justice, stated in a reply to a written Parliamentary Question by George Freeman MP on 16 September, there should be no overall cost to local authorities in the current financial year, as the loss of income will be met by central government under the new burdens doctrine. For 2011-12 and in future years the ongoing loss of fees will be considered as part of the Spending Review.

In relation to claims for refunds of fees for personal searches of the local land charges register paid in the past, local authorities will need to assess claims as they are made in the light of their own legal advice. As you say, a search agent who has passed on the cost of the fee to its customer might be unjustly enriched by a refund and, if this was the case, would not be entitled to a refund on its own account.

In relation to claims for refunds of fees for personal searches of the local land charges register paid in the past, local authorities will need to assess claims as they are made in the light of their own legal advice. As you say, a search agent who has passed on the cost of the fee to its customer might be unjustly enriched by a refund and, if this was the case, would not be entitled to a refund on its own account.

In relation to the official searches of the local land charges register, it is now understood that local authorities are able to make a reasonable charge under the EIR for supplying environmental information. This is because the vast majority of the information in the register is environmental. The power to set fees for such official searches under the Local Land Charges Act 1975 is therefore largely redundant and has been so since January 2005.

Yours sincerely,

Nobel House  
17 Smith Square  
London SW1P 3JR

**Telephone** 08459 335577  
**Email** [helpline@defra.gsi.gov.uk](mailto:helpline@defra.gsi.gov.uk)  
**Website** [www.defra.gov.uk](http://www.defra.gov.uk)



Your ref: \_\_\_\_\_  
Our ref: PO197674/VJ

East Herts Council  
Council Offices  
The Causeway  
Bishop's Stortford  
Herts  
CM23 2EN

27 September 2010

**From Richard Benyon MP**  
Minister for Natural Environment and Fisheries

*Dear*

Thank you for your letter of 25 August to the Secretary of State about the removal of prescribed charges for personal searches of Local Land Charges Registers. I have been asked to reply and apologise for the delay in doing so.

Although there was no formal consultation on the decision to remove charges which had been found to be incompatible with the Environmental Information Regulations 2004, the Local Government Association (LGA) was told on 14 June 2010 that the provision for the prescribed fee for personal searches of the Local Land Charges Register would be revoked. Officials of all three departments concerned (Defra, the Ministry of Justice and the Department for Communities and Local Government) met the LGA on 23 June to discuss the impact on local authorities.

Defra has since worked with the LGA on information obtained from local authorities to establish estimates of that impact, which has fed into interdepartmental discussions on additional funding for local authorities. These discussions are nearly complete, and we expect the outcome to be communicated to local authorities shortly. However, I can say that there will be no cost to local authorities in the current financial year, as the loss of income will be met by Central Government under the New Burdens Doctrine. For 2011 - 12, and in future years, the ongoing loss of fees will be considered as part of the Spending Review.

As sponsor of the EIRs, Defra has taken the lead in trying to ensure local authorities do get a prompt and holistic response on the overall funding issue.

However, the Government expects local authorities themselves to take greater responsibility for moving to more efficient ways of registering charges on land and maintaining land charge registers, as well as for making other environmental information, required to support property transactions, accessible to the public by electronic means. This would be in line with both the existing duty on all public authorities to make environmental information easily available under the EIRs, and with the Government's commitment to transparency.

*Yours sincerely*

*Richard Benyon*

**RICHARD BENYON MP**

Nobel House  
17 Smith Square  
London SW1P 3JR

**Telephone** 08459 335577

**Email** [helpline@defra.gsi.gov.uk](mailto:helpline@defra.gsi.gov.uk)

**Website** [www.defra.gov.uk](http://www.defra.gov.uk)



Councillor Peter Cox CBE  
Leader, Wakefield Council  
Town Hall  
Wood Street  
Wakefield  
West Yorkshire  
WF1 2HQ

Your ref: PB/EH  
Our ref: PO196955/VJ

September 2010

**From Richard Benyon MP**  
Minister for Natural Environment and Fisheries

Thank you for your letter of 24 August to the Secretary of State about the removal of prescribed charges for personal searches of Local Land Charges Registers. I have been asked to reply.

The Government could not ignore the fact that the charges were incompatible with the Environmental Information Regulations 2004 (EIRs), so the decision to remove them was unavoidable. The increase in the personal search fee from £11 to £22 at the beginning of 2010 was intended to help local authorities cover their costs in providing the personal search of the local land charges register service. The effect of the EIRs was not appreciated at the time.

The Local Government Association (LGA) was told on 14 June 2010 that the provision for the prescribed fee for personal searches of the Local Land Charges Register would be revoked. Officials of all three departments concerned (Defra, the Ministry of Justice and the Department for Communities and Local Government) met the LGA on 23 June to discuss the impact on local authorities.

Defra has since worked with the LGA on information obtained from local authorities to establish estimates of that impact, which has fed into interdepartmental discussions on additional funding for local authorities. These discussions are nearly complete, and we expect the outcome to be communicated to local authorities shortly. However, I can say that there will be no cost to local authorities in the current financial year, as the loss of income will be met by central government under the new burdens doctrine. For 2011-12



and in future years the ongoing loss of fees will be considered as part of the Spending Review.

As sponsor of the EIRs, Defra has taken the lead in trying to ensure local authorities do get a prompt and holistic response on the overall funding issue.

However, the Government expects local authorities themselves to take greater responsibility for moving to more efficient ways of registering charges on land and maintaining land charge registers, as well as for making other environmental information, required to support property transactions, accessible to the public by electronic means. This would be in line with both the existing duty on all public authorities to make environmental information easily available under the EIRs, and with the Government's commitment to transparency.

**RICHARD BENYON MP**

Nobel House  
17 Smith Square  
London SW1P 3JR

**Telephone** 08459 335577

**Email** [helpline@defra.gsi.gov.uk](mailto:helpline@defra.gsi.gov.uk)

**Website** [www.defra.gov.uk](http://www.defra.gov.uk)



Your ref:

Our ref: PO196899/VJ

Cambridge City Council  
The Guildhall  
Cambridge  
CB2 3QJ

September 2010

**From Richard Benyon MP**

Minister for Natural Environment and Fisheries

Thank you for your letter of 23 August to the Secretary of State about the removal of prescribed charges for personal searches of Local Land Charges Registers. I have been asked to reply.

The Government could not ignore the fact that the charges were incompatible with the Environmental Information Regulations 2004 (EIRs), so the decision to remove them was unavoidable. The Local Government Association (LGA) was told on 14 June 2010 that the provision for the prescribed fee for personal searches of the Local Land Charges Register would be revoked. Officials of all three departments concerned (Defra, the Ministry of Justice and the Department for Communities and Local Government) met the LGA on 23 June to discuss the impact on local authorities.

Defra has since worked with the LGA on information obtained from local authorities to establish estimates of that impact, which has fed into interdepartmental discussions on additional funding for local authorities. These discussions are nearly complete, and we expect the outcome to be communicated to local authorities shortly.

As sponsor of the EIRs, Defra has taken the lead in trying to ensure local authorities do get a prompt and holistic response on the overall funding issue.

However, the Government expects local authorities themselves to take greater responsibility for moving to more efficient ways of registering charges on land and maintaining land charge registers, as well as for making other environmental information, required to support property transactions, accessible to the public by electronic means. This would be in line with both the existing duty on all public authorities to make

environmental information easily available under the EIRs, and with the Government's commitment to transparency.

**RICHARD BENYON MP**

Nobel House  
17 Smith Square  
London SW1P 3JR

Telephone 08459 335577  
Email [helpline@defra.gsi.gov.uk](mailto:helpline@defra.gsi.gov.uk)  
Website [www.defra.gov.uk](http://www.defra.gov.uk)



Councillor Mrs Gillian Brown  
Leader of Arun District Council

Our ref: PO196522/VJ

15<sup>th</sup> September 2010

From Richard Benyon MP  
Minister for Natural Environment and Fisheries

*Gillian Brown*

Thank you for your letter of 23 August to the Secretary of State about the removal of prescribed charges for personal searches of Local Land Charges Registers. I have been asked to reply.

The Government could not ignore the fact that the charges were incompatible with the Environmental Information Regulations 2004 (EIRs), so the decision to remove them was unavoidable. The Local Government Association (LGA) was told on 14 June 2010 that the provision for the prescribed fee for personal searches of the Local Land Charges Register would be revoked. Officials of all three departments concerned (Defra, the Ministry of Justice and the Department for Communities and Local Government) met the LGA on 23 June to discuss the impact on local authorities.

Defra has since worked with the LGA on information obtained from local authorities to establish estimates of that impact, which has fed into interdepartmental discussions on additional funding for local authorities. These discussions are nearly complete, and we expect the outcome to be communicated to local authorities shortly.

As sponsor of the EIRs, Defra has taken the lead in trying to ensure local authorities do get a prompt and holistic response on the overall funding issue.

However, the Government expects local authorities themselves to take greater responsibility for moving to more efficient ways of registering charges on land and maintaining land charge registers, as well as for making other environmental information,

required to support property transactions, accessible to the public by electronic means. This would be in line with both the existing duty on all public authorities to progressively make environmental information easily available under the EIRs, and with the Government's new Transparency Agenda.

*Yours sincerely*

*Richard Benyon*

**RICHARD BENYON MP**

Nobel House  
17 Smith Square  
London SW1P 3JR

Telephone 08459 335577  
Email [helpline@defra.gov.uk](mailto:helpline@defra.gov.uk)  
Website [www.defra.gov.uk](http://www.defra.gov.uk)



Your ref: .....  
Our ref: PO196386/VJ

Torridge District Council  
[ken.miles@torridge.gov.uk](mailto:ken.miles@torridge.gov.uk)

21 September 2010

From Richard Benyon MP  
Minister for Natural Environment and Fisheries

*Dear*

Thank you for your letter of 18 August to the Secretary of State about the removal of prescribed charges for personal searches of Local Land Charges Registers. I have been asked to reply.

The Government could not ignore the fact that the charges were incompatible with the Environmental Information Regulations 2004 (EIRs), so the decision to remove them was unavoidable. The Local Government Association (LGA) was told on 14 June 2010 that the provision for the prescribed fee for personal searches of the Local Land Charges Register would be revoked. Officials of all three departments concerned (Defra, the Ministry of Justice and the Department for Communities and Local Government) met the LGA on 23 June to discuss the impact on local authorities.

Defra has since worked with the LGA on information obtained from local authorities to establish estimates of that impact, which has fed into interdepartmental discussions on additional funding for local authorities. These discussions are nearly complete, and we expect the outcome to be communicated to local authorities shortly.

As sponsor of the EIRs, Defra has taken the lead in trying to ensure local authorities do get a prompt and holistic response on the overall funding issue.

Turning to your question about fees for providing other information, known as the CON 29 search, virtually all of the information in the CON 29 is considered to be environmental. Consequently, local authorities will also need to allow free access to property search records to enable a CON 29 to be prepared. They will still be able to charge a fee for providing this information on request, but will need to apply the EIR rules on reasonable costs, rather than those in the Local Authorities (Charges for Property Searches) Regulations 2008.

The Government expects local authorities themselves to take greater responsibility for moving to more efficient ways of registering charges on land and maintaining land charge registers, as well as for making other environmental information, required to support property transactions, accessible to the public by electronic means. This would be in line with both the existing duty on all public authorities to make environmental information easily available under the EIRs, and with the Government's commitment to transparency.

Yours sincerely

Richard Benyon

**RICHARD BENYON MP**

## Department for Environment, Food and Rural Affairs

Information Rights Team  
Knowledge and Information Management  
Area 1B, Ergon House  
Horseferry Road  
London SW1P 2AL



**Telephone** 08459 33 55 77

**Website** [www.defra.gov.uk](http://www.defra.gov.uk)

Mr Mohammed Pervez  
Leader of City Council

Mr Hardial Bhogul  
Chief Operating Officer

City of Stoke-on-Trent  
Regeneration Directorate  
PO Box 630  
Civic Centre  
Glebe Street  
Stoke-on-Trent ST4 1RF

**Date** 28 September 2010

Dear Messrs Pervez and Bhogul

### Property Searches

Thank you for your letter of 17 August. I am sorry for the delay in replying.

The decision to remove charges which had been found to be incompatible with the Environmental Information Regulations 2004 was unavoidable. The government could not ignore the fact that the charges were incompatible with the Regulations. The Local Government Association (LGA) was told on 14 June 2010 that the provision for the prescribed fee for personal searches of the Local Land Charges Register would be revoked and officials of all three departments concerned (Defra, MoJ and CLG) met the LGA on 23 June to discuss the impact on local authorities.

Defra has since worked with the LGA on information obtained from local authorities to establish estimates of that impact for feed into interdepartmental discussions of additional





funding for local authorities. These discussions are nearly complete and we expect the outcome to be communicated to local authorities shortly.

However, there should be no overall cost to local authorities in the current financial year, as the loss of income and repayment of wrongful charges will be met by central government under the new burdens doctrine. For 2011-12 and in future years the ongoing loss of fees will be considered as part of the Spending Review.

Yours sincerely,

**Direct Line:**

**Email:** [environmentalinformationunit@defra.gsi.gov.uk](mailto:environmentalinformationunit@defra.gsi.gov.uk)

Nobel House  
17 Smith Square  
London SW1P 3JR

**Telephone** 08459 335577

**Email** [helpline@defra.gsi.gov.uk](mailto:helpline@defra.gsi.gov.uk)

**Website** [www.defra.gov.uk](http://www.defra.gov.uk)



Your ref: TDV/MH  
Our ref: PO196387/VJ

Councillor Tony de Vere  
Leader of the Council  
Vale of White Horse District Council  
Abbey House  
Abbey Close  
Abingdon  
OX14 3JE

September 2010

**From Richard Benyon MP**  
Minister for Natural Environment and Fisheries

Thank you for your letter of 16 August to the Secretary of State about the removal of prescribed charges for personal searches of Local Land Charges Registers. I have been asked to reply.

The Government could not ignore the fact that the charges were incompatible with the Environmental Information Regulations 2004 (EIRs), so the decision to remove them was unavoidable. The Local Government Association (LGA) was told on 14 June 2010 that the provision for the prescribed fee for personal searches of the Local Land Charges Register would be revoked. Officials of all three departments concerned (Defra, the Ministry of Justice and the Department for Communities and Local Government) met the LGA on 23 June to discuss the impact on local authorities.

Defra has since worked with the LGA on information obtained from local authorities to establish estimates of that impact, which has fed into interdepartmental discussions on additional funding for local authorities. These discussions are nearly complete, and we expect the outcome to be communicated to local authorities shortly.

As sponsor of the EIRs, Defra has taken the lead in trying to ensure local authorities do get a prompt and holistic response on the overall funding issue.

However, the Government expects local authorities themselves to take greater responsibility for moving to more efficient ways of registering charges on land and maintaining land charge registers, as well as for making other environmental information,

required to support property transactions, accessible to the public by electronic means. This would be in line with both the existing duty on all public authorities to make environmental information easily available under the EIRs, and with the Government's commitment to transparency.

**RICHARD BENYON MP**

Nobel House  
17 Smith Square  
London SW1P 3JR

Telephone 08459 335577  
Email [helpline@defra.gsi.gov.uk](mailto:helpline@defra.gsi.gov.uk)  
Website [www.defra.gov.uk](http://www.defra.gov.uk)



Our ref: PO196395/VJ

Ann Ducker MBE  
Leader of South Oxfordshire District Council  
Benson Lane  
Crowmarsh Gifford  
Wallingford  
OX10 8HQ

15<sup>th</sup> September 2010

From Richard Benyon MP  
Minister for Natural Environment and Fisheries

*Dear Ann*

Thank you for your letter of 16 August to the Secretary of State about the removal of prescribed charges for personal searches of Local Land Charges Registers. I have been asked to reply.

The Government could not ignore the fact that the charges were incompatible with the Environmental Information Regulations 2004 (EIRs), so the decision to remove them was unavoidable. The Local Government Association (LGA) was told on 14 June 2010 that the provision for the prescribed fee for personal searches of the Local Land Charges Register would be revoked. Officials of all three departments concerned (Defra, the Ministry of Justice and the Department for Communities and Local Government) met the LGA on 23 June to discuss the impact on local authorities.

Defra has since worked with the LGA on information obtained from local authorities to establish estimates of that impact, which has fed into interdepartmental discussions on additional funding for local authorities. These discussions are nearly complete, and we expect the outcome to be communicated to local authorities shortly.

As sponsor of the EIRs, Defra has taken the lead in trying to ensure local authorities do get a prompt and holistic response on the overall funding issue.

However, the Government expects local authorities themselves to take greater responsibility for moving to more efficient ways of registering charges on land and maintaining land charge registers, as well as for making other environmental information, required to support property transactions, accessible to the public by electronic means. This would be in line with both the existing duty on all public authorities to progressively

make environmental information easily available under the EIRs, and with the Government's new Transparency Agenda.

*Yours ever*

*Richard*

**RICHARD BENYON MP**

**Department for Environment, Food and Rural Affairs**

Information Rights Team  
Knowledge and Information Management  
Area 1B, Ergon House  
Horseferry Road  
London SW1P 2AL



**Telephone** 08459 33 55 77

**Website** [www.defra.gov.uk](http://www.defra.gov.uk)

Mr Ian Fytche  
Chief Executive  
North Kesteven District Council  
District Council Offices  
Kesteven Street  
Sleaford  
Lincolnshire NG34 7EF

**Date** 27 September 2010

Dear Mr Fytche

## **Property Searches**

Thank you for your letter of 9 August. I am sorry for the delay in replying.

The decision to remove charges which had been found to be incompatible with the Environmental Information Regulations 2004 was unavoidable. The government could not ignore the fact that the charges were incompatible with the Regulations. The increase in the personal search fee from £11 to £22 at the beginning of 2010 was intended to help local authorities cover their costs in providing the personal search of the local land charges register service. The effect of the EIRs was not appreciated at the time.

As to the fees for providing other information, known as the CON 29 search, virtually all of the information in the Con 29 is considered to be environmental. Consequently, local authorities will also need to allow free access to property search records to enable a CON29 to be prepared. They will still be able to charge a fee for providing this information on request, but will need to apply the EIR rules on reasonable costs rather than those in the Local Authorities (Charges for Property Searches) Regulations 2008.

The Local Government Association (LGA) was told on 14 June 2010 that the provision for the prescribed fee for personal searches of the Local Land Charges Register would be



revoked and officials of all three departments concerned (Defra, MoJ and CLG) met the LGA on 23 June to discuss the impact on local authorities.

Defra has since worked with the LGA on information obtained from local authorities to establish estimates of that impact for feed into interdepartmental discussions of additional funding for local authorities. These discussions are nearly complete and we expect the outcome to be communicated to local authorities shortly.

However, there should be no overall cost to local authorities in the current financial year, as the loss of income and restitution will be met by central government under the new burdens doctrine. For 2011-12 and in future years the ongoing loss of fees will be considered as part of the Spending Review.

The government expect local authorities themselves to take greater responsibility for moving to more efficient ways of registering charges on land and maintaining land charge registers, as well as for making other environmental information required to support property transactions accessible to the public by electronic means. This would be in line both with the existing duty on all public authorities progressively to make environmental information easily available under the Environmental Information Regulations, and with the government's new Transparency Agenda.

Yours sincerely,

**Direct Line:**

**Email:** [environmentalinformationunit@defra.gsi.gov.uk](mailto:environmentalinformationunit@defra.gsi.gov.uk)

**Department for Environment, Food and Rural Affairs**

Environmental Information Unit  
Area 1B, Ergon House  
Horseferry Road  
London SW1P 2AL



**Telephone** 08459 33 55 77  
**Website** [www.defra.gov.uk](http://www.defra.gov.uk)

Town Hall  
Dalton Square  
Lancaster LA1 1PJ

Your ref.  
Date: 2 August 2010

[by email only]

Dear

**PROPERTY SEARCHES**

Thank you for your letter of today's date with questions concerning the content of the letter sent out last week by Brendan Walsh on behalf of Defra, the MoJ and DCLG.

Most of your comments and questions are for the MoJ and as you have copied your letter to them I will leave it them to reply direct.

You also asked about guidance on charging for environmental information under the Environmental Information Regulations 2004 and our new guidance can be found at this link: <http://www.defra.gov.uk/corporate/policy/opengov/eir/guidance/index.htm>

Yours sincerely

Valerie Hope

**Direct Line** 020 7238 4675  
**Email** [Valerie.A.Hope@defra.gsi.gov.uk](mailto:Valerie.A.Hope@defra.gsi.gov.uk)





## Hope, Valerie (Defra)

---

**Subject:** FW: Property Searches  
**Attachments:** 20100727\_letter\_to\_CEOs[1].pdf

**From:** Environmental Information Unit (CIO-KIM)

**Sent:** 03 August 2010 11:00

[@welhat.gov.uk](mailto:val.hat@welhat.gov.uk)

**Subject:** FW: Property Searches

To answer your first question, Defra, DCLG, MoJ and HM Treasury are working together with the Local Government Association to address the issue of the impact of the abolition of the fee on local authority funding arrangements.

I have passed the questions on LA accounts to DCLG for a response, as this area falls within their remit.

Kind regards

Valerie Hope  
FOI/EIR Case Officer and EIR Policy Adviser  
Defra  
Knowledge and Information Management  
Information Rights Team  
Area 1B Ergon House  
Horseferry Road  
London, SW1P 2AL  
Telephone: 020 7238 4675