

CORPORATE POLICY, STANDARD AND GUIDANCE
FREEDOM OF INFORMATION ACT 2000
CHARGING POLICY

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1. Introduction

The Freedom of Information Act 2000 (FOIA) and the Environmental Information Regulations 2004 (EIR) give rights of public access to information held by public authorities. This charging policy is a guide to the fees the Council charges for responding to a request for information under the Freedom of Information Act 2000 (FOI Act). The policy complies with the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004 (the Fees Regulations) issued under the FOI Act.

2. Overview

Section 9 of the FOI Act allows the council to charge a fee for providing information in response to a request. The fee is determined in accordance with the Fees Regulations. The Fee Regulations set out what charges are permissible for information requests. These charges are currently defined as two elements, prescribed costs and disbursements.

Under section 12 of the FOI Act, the Council does not have to comply with a request for information if the cost of compliance exceeds **the Appropriate limit** - this is the limit for the estimated or calculated prescribed costs. The regulations define an 'Appropriate Limit', for local government, this limit is currently £450.

The council must still confirm or deny whether it holds the information requested unless the cost of this alone would exceed the appropriate limit.

The Fees Regulations do not apply where the council is able to charge for the disclosure of information under another statutory provision.

3. Scope

Whilst the Council does not wish to place obstacles in the way of access to information, larger or more complex requests may require a fee to be calculated and a fees notice to be issued. (See '*Calculating Charges*').

The council will charge for:

- Information requested that is priced within the publication scheme.
- Information which has a charge imposed by another enactment or regulation.
- Large or complex requests where a fees notice is issued.
- Disbursements (see '*Disbursements*') over £5.

4. Cost of Preparation

When responding to a request for information, the Council will take into account the estimated costs of preparation and the Council will estimate whether complying with the request will exceed the appropriate limit.

Where the estimated or calculated **prescribed costs are over £450**, the Council can refuse to comply with the request. In these instances, the Solutions Team will discuss with the applicant whether they wish to modify their request.

In exceptional cases, the Council may comply with requests where the estimated or calculated prescribed costs are over £450. In these instances, the Council will charge for the full, prescribed costs based on the calculation method and rate shown in '*calculating charges*', and the disbursements.

Prescribed Costs

<p>The Council can only take into account the costs it reasonably expects to incur in:</p>	<ol style="list-style-type: none">1. Determining whether it holds the information requested;2. Locating the information, or document containing the information;3. Retrieving the information, or a document containing it; and4. Extracting the information from a document containing it <p>(This includes the first time an individual working in the council reads information for this purpose, any subsequent reading, or if the information is passed to others to read, is not included), it also includes the time taken to summarise information, or to edit information, (e.g. editing and redacting where exemptions apply to part of the information contained in a record).</p>
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5. Assessing Whether The Appropriate Limit Is Exceeded

The Council will take into account the costs attributable to the time that persons (both the officers and external contractors) are expected to spend on the above four activities. The cost will be calculated at £25 per hour per person, regardless of the actual cost or rate of pay. The calculation of the appropriate limit of £450 is equivalent to about 2.5 days of one person's time charged at the £25 per hour rate.

6. Making An Estimate

The Council does not have to make a precise calculation of the costs of complying with a request; only an estimate is required.

The estimate must be reasonable and can only be based on the four activities listed above. What amounts to a reasonable estimate is determined on a case-by-case basis. For an estimate to be reasonable it must be sensible, realistic and supported by evidence.

7. Exceeding The Appropriate Limit

Where a reasonable estimate is made that the appropriate limit of £450 for the costs of preparation would be **exceeded** then the council through the Solutions Team will either: -

- Refuse to comply with the request; **and/or**
- Issue a fees notice to the applicant for the estimated amount

Where appropriate the applicant may be asked whether they would like to reframe their request so that it does not exceed the appropriate limit of £450, in these circumstances the applicant will have the choice of amending the request or alternatively paying the preparation fees.

The council can also include the costs of Disbursement as a separate fee – (see *Costs of Disbursements*). Where the limit is exceeded, there is no requirement for the Council to undertake work up to the limit.

On complaint, the Information Commissioner can investigate the way in which an estimate has been determined, and, if the estimate is considered to be unreasonable, the Information Commissioner can issue a substitute estimate. The Information Commissioner will not normally deal with such complaints unless the Council's own internal review processes have been exhausted.

8. Limitation On Charging

The Council **will not** charge for:

- The estimated cost of staff time taken deciding whether any exemptions apply to the disclosure of information cannot be taken into account when calculating the appropriate limit.
- Requests received for information already available on the Council's websites. (Unless a charge is indicated)
- Requests received for information available via the Council's Publication Scheme (where there is no charge indicated).
- Requests that council staff can easily answer without the need for extensive location and retrieval effort. (For example business as usual requests.
- Information that has been released previously following a request, and where a copy of this is maintained.
- Providing information in an alternative format if the Disability Discrimination Act (DDA) or the Race Relations Amendment Act applies, unless the original document was a priced publication. In this instance, the charge for the alternative format will not exceed the cost of original publication.
- Additional translation charges for supplying information in a different language (where English is not the first language). Where the original document is already priced, the cost for a translated version will not exceed the cost of the original publication.

The council cannot charge for the costs of preparation if it is estimated or calculated that these prescribed costs are **under £450** (other than the cost of the disbursements (reproducing the information, postage etc. - see 'Costs of Disbursements' below).

9. Duty To Confirm Or Deny

If the council estimates that the £450 limit for the costs of preparation will be exceeded, the Council will nevertheless confirm or deny whether the information requested is held, provided an exemption to this does not apply, and the estimated cost of complying with this alone would not exceed £450.

10. Costs Of Disbursement

The Council is allowed to charge for 'disbursement' costs. These are separate costs to the prescribed costs of preparation and can be charged independently, even where no preparation fees have been applied. **Disbursement costs will be charged when they reach £5 or over.**

The disbursement costs are the costs of:

- Informing the applicant whether the information is held.
- Communicating the information to the applicant
- Meeting the preference expressed by the applicant as to the format of communicating the information e.g. CD-Rom, other electronic format, and paper copy.
- Reproducing any document containing the information.
- Postage and other forms of transmitting the information.

11. Calculating Charges

For large and more complex requests, the Council will calculate the charges as follows:

1. Determine the estimated time required for the Appropriate Limit costs (determining if the Council holds the information, locating, retrieving and extracting this).
2. Multiply by £25 (the hourly rate defined within the fees regulations).
3. Determine the charge for disbursements (This will generally be the actual costs of photocopying, printing, postage, faxing, however, it may be necessary to estimate some elements).
4. Any other costs relating to supplying the information to the applicant.

The Council's standard FOI photocopying charge in force at the time of the request will be applied across the Council. Fees for photocopying of larger sizes, and colour copying will be charged in line with the Council's printing charges in force at that time. The Solutions Team will publish on the Council's website details of the Council's charges for disbursements, the charges will be reviewed and updated annually.

12. Payment Of Charges

If the Council considers that a charge is appropriate, the Solutions Team will issue the Applicant with a **Fees Notice**. Where disbursements are payable, the Solutions Team will issue the Applicant with a fees notice.

Under the FOI Act, the Council is normally required to comply with a request for information within twenty working days, however, the calculation of the twenty working days does not include the time that passes from when a Fees Notice is issued and when the Council receives payment. If, after three calendar months, no payment is received, the request will be treated as having lapsed.

13. Repeated Requests or Requests In Pursuance Of A Campaign

Repeated Requests refer to situations whereby two or more similar requests for information have been made to the Council, either by the **Same Person** or from **Different Persons** who appear to the Council to be working in association, including for the purposes of pursuing a campaign. If the Council receives these types of requests within 60 consecutive working days, the following calculations can be applied

Aggregate Requests from the Same Person

The Council will aggregate these requests for the purposes of calculating costs. Where the estimated costs exceed the 'appropriate limit' of £450, the Council will either refuse to comply with the request; and/or issue a fees notice to the applicant for the estimated amount.

Aggregate Requests from Different Persons

The Council will:

- a) Estimate the costs for each individual request and
- b) Aggregate the requests for finding the overall estimated cost.

If the total costs exceed the appropriate limit, each individual will be charged for their request. For example a request made by 2 individuals, each amounts to £350. Added together the total costs are £700, and therefore exceed the appropriate limit of £450. The Council can charge each applicant £350 (together with any charges for disbursements).

This formula will apply to all aggregate requests received within 60 consecutive working days. Where two or more requests are received at separate times, and the first request has been complied with, the Council reserves the right to aggregate all subsequent related requests – i.e. the second/third request - and charge these applicants according to the formula described above. Applicants will be informed of the Council's reasons for

aggregating requests and invited to pay the specified amount. In all cases fees notices will be issued.

14. Review of Costs

The Council reserves the right to keep under review its rates of calculating costs where the Fees Regulations allow. The Council will endeavour to keep costs reasonable, in order to assist public access to information in accordance with the spirit of the FOI Act.

15. Complaints

The Council has an Internal Review Procedure (*see FOI Act Policy - Appendix B*) for dealing with complaints made in relation to the handling of requests for information under the FOI Act. Any person who is unhappy with the way in which the Council has handled their request for information may use this procedure (for example a complaint may be made if it is felt that a fee has been wrongly applied). The Information Commissioner is unlikely to investigate any complaint about the Council's handling of an information request unless the complaints procedure has been exhausted.

Details of the Internal Review Procedure can be found on the website at www.cheshirewestandchester.gov.uk

Complaints about the way in which information requests are handled should be directed to:

Solutions Team
Cheshire West and Chester Council
HQ
58 Nicholas Street
Chester
CH1 2NP

SolutionsTeam@cheshirewestandchester.gov.uk

16. Monitoring And Review

The Solutions Team, working with the FOI co-ordinators from each Directorate/service, will monitor compliance with this policy.

The Solutions Team will review this policy annually.

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