

Access to Information Fees Policy

Introduction

This policy explains the fees charged by Newark and Sherwood District Council for complying with requests for information made under the Freedom of Information Act 2000, the Data Protection Act 1998 and the Environmental Information Regulations 2004 and how those fees are calculated.

1. Freedom of Information Act 2000 (FOIA)

Where a request involves information included in the Council's Publication Scheme any applicable charges will be as set out the scheme, or in any published fees schedules relating to such information. Charges for other information (and where no charges are specified in the Publication Scheme or elsewhere) will be calculated as follows:

1.1 *Estimating Costs*

When a request for information is received an estimate of the costs the Council reasonably expects to incur in dealing with the request will be made. This calculation will include the time staff spend on the following activities at a rate of £25 per person per hour:

- Determining whether the information requested is held;
- Locating the information or documents containing the information;
- Retrieving such information or documents; and
- Extracting the information from the document containing it.

The following will not be taken into account when calculating the estimated costs:

- Checking whether the request meets the requirements of the FOIA,
- Considering whether an exemption under the FOIA applies;
- Considering whether the request is a vexatious or repeated request;
- Obtaining authorisation to disclose information;
- Calculating the fee to be charged; and
- Any advice or assistance provided in relation to the request.

1.2 *Where the estimated cost is less than £450 (i.e. below the limit stipulated in the FOIA)*

If the estimated cost is equal to or less than £450, there will be no charge for any time spent dealing with or responding to a request. The only charge made will be for any 'disbursements' incurred in informing the requestor whether the information requested is held, and communicating that information to the requestor.

This will include the costs of:

- Putting the information into any preferred format requested (for example DVD, CD-Rom, video or audio cassette). The actual cost to the Council in doing this will be charged;
- Reproducing any document containing the information (for example printing or photocopying). A charge of 10 pence per A4 sheet (per side) and 20 pence per A3 sheet (per side) will be made. Copies in colour will be charged at 20 pence per A4 sheet (per side) and 40 pence per A3 sheet (per side); and
- Postage and other forms of transmitting the information. Postage and transmission will be charged at the actual cost to the Council.

1.3 Where the estimated cost exceeds £450

There is no obligation upon the Council to comply with a request where the estimated cost of complying will exceed £450.

If the cost of complying with a request is estimated to exceed £450 assistance will be offered to the requestor to refine the request, in order to see whether it can be brought within the limit.

If, following such assistance, the request cannot be brought within this limit the request will normally be declined. However, in exceptional circumstances the Council may (at its sole discretion) be prepared to respond to requests which exceed this limit where the requestor is prepared to pay for the cost of complying with the request. In these cases the charges, calculated as set out below will apply.

Time spent by staff at a rate of £25 per hour on the following activities:

- Determining whether the information requested is held and informing the requestor accordingly;
- Locating the information or documents containing the information, retrieving such information or documents;
- Extracting the information from the document containing it;
- Putting the information into any preferred format requested;
- Reproducing any document containing the information (for example printing or photocopying); and
- There will also be a charge for any disbursements incurred e.g. postage, other transmission costs etc.

1.4 Fees Notices

Where it is proposed to charge a fee for responding to a request, a fees notice will be issued first to the requestor.

The 20 working day period for complying with requests will be 'frozen' when the fees notice is issued and will only restart when payment of the fee is received.

If payment is received by cheque, the period will only restart when the cheque has cleared.

If no response is received to the fees notice within three months of the date of its issue, the request will be treated as closed.

If the actual cost of responding to the request exceeds the estimated amount stated in the fees notice the Council will bear the additional cost. If the actual cost is less than stated in the fees notice the excess will be refunded to the requestor.

1.5 Related Requests

Two or more requests for information may be treated as one single request for the purpose of estimating whether costs will exceed £450, in the following circumstances:

- where two or more requests for similar information are received; and
- the requests are received within any period of 60 consecutive days; and
- those requests appear to have been made by the same person, or different persons acting in concert or pursuance of a campaign.

2. Data Protection Act 1998 (DPA)

There is a statutory maximum fee of £10 for responding to 'subject access requests' (SAR) (i.e. a request for personal information by the individual concerned) under the DPA.

If the request is for 'unstructured personal data' (i.e. data about a person which is not held on computer or as part of a 'relevant filing system') then the Council is not obliged to, and will not normally, respond to the request if it is estimated that the cost of doing so will exceed £450.

3. Environmental Information Regulations 2004 (EIR)

Under the EIR the Council is permitted to make a 'reasonable charge' for the supply of environmental information. The charges the Council will make in relation to requests under the EIRs are similar to those under the FOIA (described above) but there are a number of differences.

3.1 Estimating costs

When a request for information under the EIRs is received, the cost of responding to the request will be estimated in the same way as requests under the FOIA (see above). Time spent by staff will be calculated at a flat rate of £25 per person per hour.

3.2 Where the estimated cost is less than £450

Where the estimated cost of responding to a request is less than £450, the only charge will be for any 'disbursements' incurred in informing the requestor whether the information requested is held, and in communicating that information to the requestor. These charges will be calculated in the same way as they are for requests under the FOIA (see above).

3.3 Where the estimated cost exceeds £450

In the first instance the Council will provide assistance to the requestor to refine their request, in order to see if it can be brought below the £450 limit. If this is not possible or acceptable to the requestor the Council will respond to the request, but will charge for both the staff time and any disbursements incurred in so doing. These costs will be calculated in the same way as they are for requests under the FOIA (see above).

Staff time will be calculated at a flat rate of £25 per person per hour, which reflects the cost to the Council of handling most requests, given the level of knowledge and experience required. However, where it is necessary and/or reasonable for the services of a third party to be used to respond to the request, the Council reserves the right to charge for the actual cost involved, unless it is prevented by law from doing so.

3.4 Fees Notices

Where it is proposed to charge a fee for responding to a request a fees notice will be issued to the requestor before responding. The 20 working day period for complying with requests will be 'frozen' when the fees notice is issued and will only restart when payment of the fee is received.

If payment is received by cheque, the period will only restart when the cheque has cleared.

If no response to the fees notice is received within 60 working days of the date of issue, the request closed will be considered closed.

If the actual cost of responding to the request exceeds the estimated amount stated in the fees notice the Council will bear the additional cost. If the actual cost is less than stated in the fees notice the excess money will be refunded to the requestor.

3.5 When charges will not be made

We will not make any charge for the following:

- Access to any public registers or lists of environmental information held by the Council; or
- Examination of information at the Council's offices

4. Mixed Requests

Where the request includes information which falls under more than one of the access regimes (i.e. the FOIA, DPA and EIRs) the Council will, where appropriate, separate out the constituent parts of the request for the purposes of calculating the fees to be charged.

About this Policy

This Policy was last updated in December 2008 and has been drafted to comply with the legislation and guidance listed below.

For further information on the Council's powers to charge fees for the supply of information reference should be made to these documents:

- The Freedom of Information Act 2000
- The Data Protection Act 1998
- The Environmental Information Regulations 2004
- The Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004
- The Data Protection (Subject Access) (Fees and Miscellaneous Provisions) Regulations 2000 (as amended)
- The Department of Constitutional Affairs' Guidance on the application of the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004.
- The Code of Practice on the discharge of Public Authorities functions under the Environmental Information Regulations.
- DEFRA's guidance on the Environmental Information Regulations - Chapter 6 Handling requests for environmental information.

This policy will be reviewed and amended from time to time to reflect changes in the law and guidance.

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