



ENVIRONMENTAL INFORMATION REGULATIONS 2004 CHARGING POLICY

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Council Policy Statement on Charging

The Council is committed to openness and will release information to individuals and organisations both routinely and in response to requests under the Environmental Information Regulations 2004 (EIR).

1. Introduction

1.1 The (EIR) allows public authorities, such as the Borough Council, to charge for answering requests in certain cases. This policy outlines:

- When the Council will charge fees and costs (disbursements)
- How the costs and fees will be calculated; and
- The procedures that will be followed.

1.2 In its day-to-day work the Council receives many requests from individuals and organisations for information about environmental issues. The majority of these requests require a simple enquiry and a basic answer and are dealt with promptly and without charge.

1.3 Under (EIR) the Council cannot refuse to answer queries solely on grounds of cost.

1.4 The Council does have a discretion to make a reasonable charge for providing environmental information.

1.5 The Council can charge for disbursements such as the costs associated with photocopying, postage etc. Disbursements are detailed below.

1.6 Where a charge is to be made for the information requested the person requesting the information will be notified in writing in advance of the likely costs and asked whether they wish to proceed before any work is carried out to respond to the request.

1.7 Where the costs and/or the quantity of information requested may appear excessive, an Officer will contact the person or organisation making the request to discuss the enquiry in more detail to establish what can be done to reduce the costs and the Council's time in addressing it.

- 1.8 Where costs are to be incurred the Council will require payment in advance for providing the requested information. This will be requested by a "Fees Notice".
- 1.9 Where the actual cost of answering the request is greater than the estimated cost, the council will incur the additional cost.
- 1.10 Where the actual cost of answering the request is less than the estimated cost charged, the Council will refund the excess.
- 1.11 This document should be read in conjunction with the Councils Freedom of Information Charging Policy (available on the Councils website at www.great-yarmouth.gov.uk)

2. Information Provided at No Charge

- 2.1 The Council cannot and will not charge for allowing access to any public register or list of environmental information (although it may charge for copies as disbursements).
- 2.2 The Council cannot and will not charge for allowing any person to examine relevant information (at a location and time agreed by the Council)

3. Charging Policy

EIR will closely follow the charging fees as laid out in the FOI Fees Regulations. There are two types of chargeable fees:

- **prescribed costs** of the request – the cost of finding, sorting, editing or preparing the material when it exceeds £450.
- **disbursements**, such as printing, photocopying, postage or information provided in other formats, to be charged in all cases where costs exceed £10

3.1 Prescribed costs

Section 13 of the FOI Act states that fees can be charged for requests above the appropriate limit. The appropriate limit is £450 for local government. Information will be supplied free of charge, except for disbursements for requests costing less than £450

Where the request is estimated to exceed £450 Council staff will discuss with the applicant ways of refining the request to a manageable level. Under the Environmental Information Regulations no information can be refused solely on the grounds of cost.

To achieve consistency, all public authorities will use the same hourly rate of £25 per hour per staff member for estimating costs, regardless of seniority of the staff involved.

The prescribed costs of answering a request are defined as:

- determining whether the information requested is held;
- locating it;
- retrieving it; and
- extracting the information to be disclosed from other information, including the first time an individual working in the authority reads information for this purpose (although

any subsequent readings, or if the information is passed to others to read, will not be included) and including editing or preparing the information.

The following items will not be included in the prescribed costs:

- the costs involved in considering whether material should be classed as exempt under the Regulations or whether exempt information should be disclosed under the public interest test. This includes both staff time and the cost of any legal advice that the Council may choose to seek. It also covers situations where the Council can neither confirm nor deny that it holds requested information.
- the costs involved in considering whether a request is vexatious or a repeated request.
- consulting third parties prior to sending out the information.
- overheads, including IT running costs, superannuation costs, building-related costs (heating, lighting etc).
- the time taken to calculate the fees notice, including time taken when aggregating requests.
- advice and assistance provided under Regulation 9.

If a request is particularly wide-ranging, and therefore likely to be resource intensive and expensive to answer, the Council will discuss this with the applicant to see if the question could be refined to a more manageable level.

3.2 Disbursements

In addition to any charge for the prescribed costs of a request, the Council will also charge for disbursements – that is the cost of physically producing information and sending it out, but will not charge for its time in undertaking these tasks while the prescribed costs do not exceed £450.

Disbursement may include

- photocopying or printing material
- postage
- producing material in an alternative format at the request of the applicant, such as putting it onto CD-Rom, video, or audio cassette
- providing extracts of databases
- translating information into a different language at the request of the applicant.

The Council will take account of the applicant's preferred format for receiving information, so far as this is reasonably practicable. This includes summarising or translating the information, or allowing the applicant reasonable opportunity to inspect a record containing the information. Costs incurred producing material in an alternative format will be included as disbursement costs. However, if these costs are high, the Council will contact the applicant to discuss whether a free or cheaper alternative might meet their needs equally well.

The cost of disbursements does not include any of the costs that are listed above as being either included in or excluded from the prescribed costs.

It also does not cover the cost of putting the material in a different format where this is required by law – for example, the cost of producing material in Braille (as required by the Disability Discrimination Act 1995), or translating information into Welsh (as required by the Welsh Language Act 1993).

The Council will charge for disbursements at:

- 10p per sheet for printing or photocopying at A4 and 20p per sheet for printing or photocopying at A3. Colour printing, if appropriate will be 50p per sheet for A4, £1.00 for A3 (per sheet means one side of paper). Larger paper sizes will be at the Council's standard rate.
- full postage costs. Documents will be sent by second class mail unless specified otherwise
- actual costs incurred when providing information in other formats as follows:CDs at £1.00 each, Floppy discs at 50p each
- any disbursements involving staff time will be charged at a flat rate cost of £25 per hour where over the appropriate limit.

The Council can charge for disbursements in all cases, whether or not we are also charging for the prescribed costs. In cases where the disbursement cost is low i.e. less than £10 any fee will be waived.

4. **Fees notices**

- 4.1 Where charges are indicated, a fees notice will be issued before the request is answered, giving an estimate of the costs involved. An applicant has 60 working days to pay. If payment is not received, the Council does not have to answer the request
- 4.2 Information requests have to be answered not later than 20 working days following date of receipt. Where fees apply the date between the issue of the fees notice and the date when the fee is paid are disregarded in calculating the 20 day deadline.
- 4.3 If the actual cost of answering the request is greater than the estimated cost, the Council bears the additional cost.
- 4.4 If the actual cost of answering the request is less than the estimated cost charged, the Council will refund the excess.
- 4.5 If the actual cost proves to be less than £450 the Council will refund all the money, less disbursements over £10.

5. **Exceptions**

The exceptions under which environmental information may be withheld are listed under Regulation 12 (4) and (5). All the exceptions are subject to the Public Interest Test.

A request for information can be refused (or part of it withheld) if:

- Information is not held (the request may be transferred)
- The request is manifestly unreasonable

- The request is too general (after fulfilling duty to assist and advise)
- The request is for unfinished documents or data (in which case estimated time for completion must be given)
- The request is for internal communications

A public authority may also refuse to disclose information or withhold part of it in order to protect the following:

- Confidentiality of meetings
- International relations/public security/defence
- The course of justice and right to fair trial
- Commercial confidentiality
- Intellectual property rights
- Personal/voluntary data
- Environmental protection

If information relates to emissions, a public authority cannot refuse to disclose it on grounds of confidentiality of proceedings, commercial confidentiality, personal/voluntary data or environmental protection.

If a request is refused, the public authority must notify the requestor which exception has been claimed and why that exception applies.

Public authorities must also specify the public interest factors (for and against disclosure) that they have taken into account before reaching the decision.

6. **VAT**

Sections 9 and 13 of the Freedom of Information Act 2000 give public authorities the option to charge for information in accordance with the fees Regulations (SI 2004/3244). As the Act does not set a specific fee, any monies charged are not statutory fees. However,

- If an authority was asked for information, and the information was only available from that authority or another public authority, any fees charged would not attract VAT.
- If an authority was asked for information that was available from another source, any fees would attract VAT. This would still be the case even if the authority was obliged to supply the information because the cost of answering was below the appropriate limit.

These rules apply equally to requests that are above or below the appropriate limit – the key determining factor as to whether VAT is charged is whether the information is available from another source that is not a public authority

7. **Policy Review**

This policy will be managed and reviewed annually, including any revision to charges. Reviews will be subject to scrutiny and, from time to time, updates and re-issues will be circulated. However, the policy will be reviewed sooner if a weakness in the policy is highlighted, in the case of new risks, and/or changes in legislation.