

Causeway Coast & Glens Borough Council

To: Corporate Policy and Resources Committee
Date: 20 October 2015

**Causeway Coast and Glens Council Draft
Charging Structure for Published Information**

**For decision and
approval**

Linkage to Corporate Plan	
Strategic Priority	Leader and Champion
Objective	Civic Leadership
Lead Officer	Elizabeth Beattie
Cost: (If applicable)	

1.0 Background

- 1.1 The Freedom of Information Act 2000 (FOIA), the Environmental Information Regulations 2004 (EIR) and the Data Protection Act 1998 (DPA) all give rights of public access to recorded information held by public authorities (although certain exemptions can apply).
- 1.2 Causeway Coast and Glens Borough Council has previously approved a Freedom of Information and Environmental Information Regulations Policy and Procedure which outlines the Council's commitment to the principles enshrined in this legislation.
- 1.3 This policy states that the Council will operate an access regime on the presumption that information is open unless there is a valid reason to restrict access. However, the Council also does have the ability to levy certain fees and charges in relation to information access requests received by the Council falling under the following three pieces of legislation:
- The Data Protection Act 1998
 - The Freedom of Information Act 2000 (FOIA)
 - The Environmental Information Regulations 2004 (EIRs)
- 1.4 A draft Charging Structure for Published Information which outlines the circumstances in which fees can be levied and gives proposed charges has now been prepared for consideration by the Committee.

2.0 Draft Charging Structure for Published Information

- 2.1 The draft Charging Structure for Published Information is attached as **Appendix 1**.
- 2.2 This document outlines the legal background under which Council can charge for access to information and what is considered to be “appropriate limits”. It also outlines how the costs for a request for access to information will be estimated, how multiple requests can be aggregated to bring them within the appropriate limit and how vexatious or repetitious requests can be dealt with.
- 2.3 The document contains information on how disbursement costs such as photocopying and postage can be charged for and outlines proposed charges for such services.
- 2.4 The draft Charging Structure has been developed in line with guidance issued by the Information Commissioner’s Office.

3.0 Recommendation

It is recommended that the Corporate Policy and Resources Committee recommend to Council the approval of the draft Charging Structure for Published Information as set out in **Appendix 1**.

Causeway Coast & Glens Borough Council

Charging Structure for Published Information

THE DATA PROTECTION ACT 1998
THE FREEDOM OF INFORMATION ACT 2000 (FOIA)
THE ENVIRONMENTAL INFORMATION REGULATIONS 2004 (EIRs)

Policy Number	CCG/20/15
Version Number	2
Author	Linda McKee

Date of Screening of Policy	
EQIA Recommended?	YES/NO
Date Adopted by Council	
Date Policy Revised	

Charging Structure for Published Information

Scope of Policy

This policy applies to the levying of fees and charges in relation to information access requests received by the Council falling under:

- The Data Protection Act 1998
- The Freedom of Information Act 2000 (FOIA)
- The Environmental Information Regulations 2004 (EIRs)

Legal Background for Charges

The Data Protection Act (Section 7) allows for a flat fee of £10 to be charged for the supply of structured personal information.

Under Section 12 of the Freedom of Information Act a public authority is not obliged to comply with a request for information if the authority estimates that the cost of complying with the request would exceed the “*appropriate limit*” prescribed in the regulations. The Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004, identify the “appropriate limit” of fees and charges the council is permitted to levy in response to requests made under Freedom of Information. This also applies to requests for “unstructured” personal information under Section 9A of the Data Protection Act 1998 (inserted by section 69 of FOIA).

There is no “appropriate limit” to the cost of complying with requests for environmental information. However, Regulation 8 of the Environmental Information Regulations 2004, provides for the recovery of “reasonable” costs.

The ‘Appropriate Limit’

Under Regulation 4 of the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004, the “appropriate limit” is set at £450 for Local Authorities.

This is calculated on a standard rate of £25 per hour based on estimating the staff time taken to:

- Determine if the information is held
- Locate the information or a document which may contain the information
- Retrieve the information, or a document, which may contain the information
- Edit or extract the releasable information contained within a document

This calculation does not take into account the time spent/costs of:

- Checking that a request for information meets the requirements of FOIA

- Considering the application of exemptions; prejudice and/or public interest tests
- Obtaining internal or external legal advice
- Consulting with third parties and obtaining authorization to send out information.
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Based on the standard hourly rate of £25 specified in the FOIA Fees Regulations, the maximum amount of staff time spent finding, retrieving, collating and editing before exceeding the £450 cost limit is 18 hours.

Charges made under EIR may not exceed the “actual costs of producing the information” unless the public authority is entitled to levy a market based charge for the information. No charges can be made for allowing an applicant:

- Access to a public register or list of environmental information
- To examine the information requested at the place which the public authority makes available for that purpose.

Under both FOIA and EIR, the actual costs of communicating information released to the applicant are recoverable. This includes the cost of printing, photocopying, postage and/or supplying the information in a particular form.

Estimating the Cost of an Information Request

FOIA Information Requests

The council makes information available through its publication scheme. Most information in the scheme is available free of charge. Where charges apply, they will be indicated in the scheme.

The Freedom of Information Act is intended to build on existing access channels rather than replace existing access regimes. Therefore if information is reasonably accessible to applicants through other means, such as through other legislation or the council’s publication scheme, it is exempt from FOIA. Where information is otherwise available, this means the rules for costing and charging for compliance with the act do not apply.

For information that is not otherwise accessible, if it is estimated that a request will take less than 18 hours to complete and there is no reason to withhold the information, the request will be dealt with free of charge except for disbursement costs.

If it is estimated that such a request will take more than 18 hours to complete the council is not obliged to comply with the request and may turn down requests exceeding this limit. Applicants will be assisted to make the request smaller and more precisely focused.

Professional Charges:

In exceptional circumstances, the Council may have to employ external specialists or other professionals to gather and prepare information to meet a specific request. A fees notice (a written estimate), to include time and materials spent by Council staff, will be given of the cost of providing such information.

VAT is not payable on requests for information under the Council's Publication Scheme and covered by the Freedom of Information Act 2000.

Time Limits and Charging

If disbursement costs, or professional charges apply for responding to an FOI request under the 'appropriate limit' an estimated Fees Notice will be issued. Once the Fees Notice has been issued, the clock stops and the applicant has three months to pay the charge. The request lapses after 3 months if the charge remains unpaid. Only when payment has been received and has cleared does the clock restart and work begin on collating the information.

The Fees Notice will usually be issued, if possible, before any costs are incurred in preparing to answer the request. If a charge applies, the estimated fees and/or costs of supplying the information, will be payable in advance.

EIR Information Requests

Environmental information will be available for examination on council premises free of charge.

Regulation 8(1) permits a public authority to charge for:

- The cost of staff time spent locating, retrieving and extracting the information
- The cost incurred when printing or copying the requested information and sending it to the applicant.

It does not permit staff time taken to maintain databases, overhead costs and time spent redacting excepted information.

If the applicant requests copies of the information, photocopying and disbursement costs will apply.

Council will define 'reasonable costs' as those stated under Regulation 4 of the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004, the "appropriate limit" is set at £450 for Local Authorities. This is calculated on a standard rate of £25 per hour.

Aggregating Requests

The FOIA Fees Regulations provide for the costs of answering more than one request to be added together or aggregated for the purposes of estimating whether the 'appropriate limit' would be exceeded in relation to any one of the requests.

Requests can only be aggregated in the following circumstances:

- two or more requests for information must have been made to the same public authority;
- they must be either from the same person, or from different persons who appear to the authority to be acting together or in pursuance of a campaign (section 12(4)(b) of FOIA);
- the requests must relate to the same or similar information; and
- they must have been received within a space of 60 consecutive working days.

(This provision is designed to prevent individuals or organisations undermining the 'appropriate limit' by splitting a request into smaller parts. Before applying these provisions, the Council will carefully consider the reasons for believing that requests have been framed to frustrate the cost limit.)

Repetitious/Vexatious Requests

In considering whether to refuse to answer multiple questions altogether on the grounds that they are repetitious or vexatious requests, the Council will take account of guidance issued by the Information Commissioners Office.

Other Costs

The council is committed to the use of electronic means to provide requested information, and will encourage and advocate the use of these means in all appropriate cases, subject always to the stated preference of the applicant. Normally information supplied electronically will not involve a cost unless hard copy information has been specifically converted for this purpose.

Other or additional costs (such as postage and printing charges, see below) incurred as a result of communicating information in a way requested by the applicant where the overall amount exceeds £1.00, may be payable. This includes but is not limited to requests to supply information on CD ROM; floppy disc; flash drive, any another medium, or in a language other than English.

Communicating Information – Disbursement Costs

Irrespective of whether the request is below or above the 'appropriate limit', disbursements will normally be charged where the estimated photocopying cost exceeds the cost of five A4 black & white photocopies, or one A4 colour photocopy.

Under Section 11(1) of the FOIA, authorities have a duty to take account of the applicants' preferred format for receiving information. This may include:

- summarising the information and providing the applicant with a copy (i.e. photocopying or printing)
- allowing the applicant to inspect a record containing the information
- producing material in an applicant's preferred format (for example by putting it onto a CD-ROM, video or audio cassette) or
- translating information into a language other than English, or preparing information in another format (e.g. Braille, large type) at the request of the applicant

Charges will not be applied by the Council for costs incurred arising from meeting our obligations under disability or other equality legislation.

Postage and Printing Costs

Costs are:

A4 copies	Black and White - 10p per page
A4 copies	Colour – 20p per page
A3	Black and White - 20p per page
A1	£5 per page
Post and Packing	At cost
Minimum Charge	£2.00

In all the above cases, VAT is not payable.

Review of Charging Policy

This policy will be reviewed regularly and in conjunction with the review of the Council's Publication Scheme.