

Information Governance Framework

Schedule 05C Information Charging Policy

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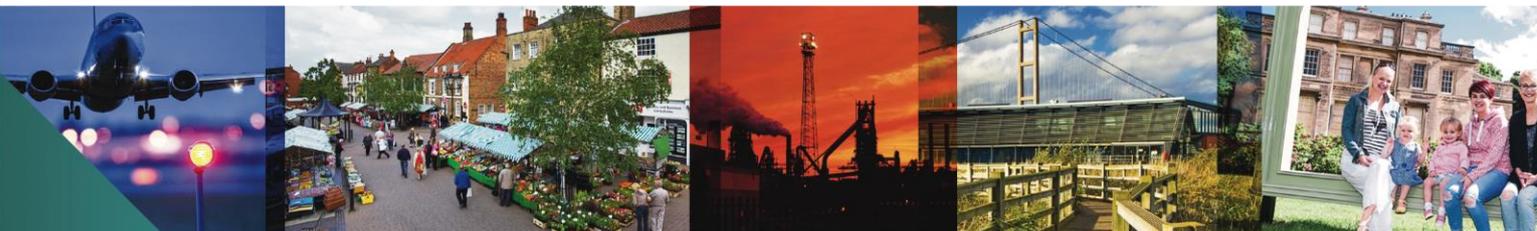
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**North
Lincolnshire
Council**



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Author	Information Governance Function.
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Current Review	November 2018
Change History	<p>V2.6 - The policy has been updated to make reference to the General Data Protection Regulation and Data Protection Act 2018 that were introduced 25 May 2018 and which replaced the Data Protection Act 1998.</p> <p>The policy has also been updated to remove the carrying out of 4 hours of work before making a charge to supply EIR information, after consulting with other similar public authorities.</p>
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1. Introduction

Current information legislation encourages public sector organisations to be transparent so that individuals can understand or contribute where appropriate to decisions that affect them. North Lincolnshire Council is committed to being open and transparent and will whenever possible publish and release information free of charge. Information will be provided in electronic format whenever possible to keep costs to a minimum and to limit the occasions when charges could apply. On the occasions when a fee is required the amount charged will be in line with relevant legislation and will be published or advised on application.

The aim of this policy is to set out a consistent approach for the application of information related charges and it covers:

- How and when charges will be applied in relation to requests for information.
- When the council is not obliged to proceed with a request for information on the grounds of cost.
- How and when other information related charges may be applied.

This policy is part of a suite of Information Governance policies and procedures.

2. Scope

This policy applies to all council employees and all individuals or organisations acting on behalf of the councils. All employees responding to requests for information will, when deciding whether to charge and what to charge, comply with relevant legislation and any charging requirements set out in this policy.

Schools may choose to adopt this policy but where this is not the case it is expected they will have their own appropriate policy.

3. Requests for Information Charges

There is no charge for submitting a request for information under the Freedom of Information Act (FOIA), Environmental Information Regulations (EIR) or the General Data Protection Regulation (GDPR).

Occasionally a charge may be made to communicate information where this is permitted by legislation, but we do not charge to communicate information in response to information requests if these costs are under £10. Where the cost is over £10 we reserve the right to charge, as set out in Appendix C. These costs are sometimes known as disbursement charges and include

costs such as printing, postage and creation to CD or DVD if this is the preferred format.

GDPR requests for personal information are known as a subject access requests or SARs. There is no charge to make a request but on a case by case basis a charge may be made for requests considered to be manifestly unfounded or excessive or for further copies of information supplied. Any fees will be based on the administrative cost of providing the information.

We do not charge for inspections of information at council offices, provided this information is routinely made available for inspection and there is generally no charge for access to a public register or lists of information.

Information that is published under the 'Open Data and Transparency' agenda on our website is available for you to use free of charge under the terms of the Open Government Licence. Information published through our Publication Scheme is generally available free of charge. However, charges are permitted provided that a schedule of charges is published in advance in the Publication Scheme. Any fees charged will be justified, transparent and kept to a minimum and will not go against the aim of supporting public access to information. Examples of when charges might apply are when other statutory regimes permit a charge and when commercial publications are requested.

Anyone requesting information in relation to the FOIA or EIR where there is a fee to pay will be advised of the cost within 20 working days. Where there is a fee to pay under the GDPR this will be advised to the requester as soon as possible within the calendar month we aim to respond within.

Information requests are placed on hold from a timescale and collation of information point of view, from the date the fee is requested until it is paid. Fees must be paid within three months from the date the notification of a charge is sent to you. After three months the request will be closed if the fee is still outstanding.

See appendix B for details of how to make a payment.

4. Charging for Re-use of Information

Applications to re-use the councils' information will be considered as set out in the Access to Information Policy.

Permission to re-use may be given as a licence and whilst the council will always try and give permission in the form of a free Open Government Licence sometimes a charge will apply. Any charges and instructions about how the payment can be made will be advised to the applicant at the point of request to re-use.

5. Freedom of Information Act (FOIA) Fee Limit

Section 12 of the FOIA allows the council to refuse to comply with FOIA requests (including requests for datasets) on the grounds of cost, if gathering the information and/or responding would exceed the fee limit set out in the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004. The fee limit for local authorities is £450. See Appendix A for details of how the fee limit is calculated. These regulations do not apply to requests under EIR or under the GDPR and there is no equivalent process.

Where it is estimated that the £450 fee limit will be exceeded a record of the calculation will be kept. The requester will receive a refusal notice explaining the calculation and providing advice / assistance to, if possible, revise the request so that it comes within the fee limit.

After advice/assistance if the estimated cost of the request still exceeds the £450 fee limit we will carefully consider whether resources can be diverted to fulfil the request.

In this instance we may refuse the request or agree to provide the information but make a charge. This charge would be calculated using the same formula as that used to calculate whether the request is over the fee limit and again a record will be kept of this calculation. Section 13 of FOIA allows us to make this charge; appendix A sets out how to calculate the charge and appendix B how to make the payment.

Refusing to comply with the request could also include refusing to confirm or deny if we hold the requested information, if to carry out this task would go over the fee regulations limit of £450.

6. Property Searches and Requests for Information

Property Search information is generally requested from councils when an individual is buying a property via a CON29 form to obtain additional information about a property that is not included in Public Registers.

When a CON29 request is made we are either asked to complete the CON29 form and verify the answers given or to provide the necessary information so that someone else, such as a legal advisor can complete the form. Most information needed to complete a CON29 form is environmental information as defined by the EIR. Occasionally general information as defined by the FOIA is required.

If we are asked to complete a CON29 form and verify the information given the charging regime in the CPSR will apply. This is called the Local

Authorities (England)(Charges for Property Searches) Regulations 2008 (CPSR).

If the information is provided for someone else to complete the CON29 form only charges permitted by the FOIA or EIR can be made. Generally if the information requested is environmental and is in excess of that required to complete the LLC1 form questions charges as permitted under the EIR will be made.

An LLC1 form is an official form that you or your solicitor can submit to the council to obtain information listed in the Local Land Charges Register about a property or land.

The Local Authorities (England)(Charges for Property Searches) Regulations 2008 (CPSR) will not be used to justify charges published in the Publication Scheme.

7. Environmental Information Regulation Charges

Under EIR a reasonable charge may be made for supplying information. This may include the actual costs of staff time taken to locate information and put it in an appropriate format for release, and the costs in transferring the information to the requester. However, to prevent unnecessary charges we aim to proactively publish information in an easily accessible electronic format wherever possible.

Under EIR public authorities such as the council can charge for:

- The cost of employee time to locate, retrieve and extract the information either to send it to the requester or to prepare information for inspection where preparation will take a significant amount of time;
- The disbursement costs incurred in communicating the information to the requester, such as printing or copying costs.

We must also be able to demonstrate why a charge is reasonable and provide a breakdown of charges so the requester can understand the basis for the fee.

Sometimes where appropriate we will make a commercial charge where a market-based charge is considered to be reasonable, because the information is made available on a commercial basis and the charge is necessary to ensure such information continues to be collected and published.

We cannot charge for:

- The cost of maintaining a register of information or a database;
- Allowing requesters to inspect or access a public register;

- Employee time spent reviewing and redacting information.

Requesters should also not be unfairly penalised if an organisation has failed to keep records that are reasonably accessible.

We must also publish a Schedule of Charges if we are to charge requesters for environmental information. Our Schedule of Charges is set out in Appendix C and in addition our hourly rate for calculating the value of employee time is £25. This is the same rate used for calculating whether an FOIA request is over fee limit and is therefore considered reasonable.

8. Refunds

We will always try to ensure that estimated fees are as accurate as possible. If a request is over the fee limit and an agreement is reached to charge for the supply of information and the actual cost of providing the information is found to be greater than the estimate sent to you, we will bear the extra cost. However, if the cost is found to be lower we will refund the difference.

Refunds of all or part of the fee paid will only be made as set out above or in other exceptional circumstances, at the discretion of a senior member of the Information Governance Team.

9. Fees and VAT

VAT will not be payable on information request fees if the information supplied is only available from the council or another public authority. VAT is payable if the information is also available from a non-public authority source.

10. Dissatisfaction with Charges

Individuals who are unhappy with how a request for information was handled or any charges applied can request an internal review using our Information Complaint Policy.

Appendix A – FOIA Fee Limit Calculation

This fee limit is reached under FOIA if it is estimated that the time taken to carry out the following four activities would exceed 18 hours of employee time, based on a £25 per hour rate regardless of job grade.

The same calculation is used to determine the fee if a request remains over the fee limit but it is agreed that we proceed with the request on payment of a fee by the applicant: -

- Determining whether the information requested is held;
- Locating the information;
- Retrieving the information;
- Extracting the information to be disclosed (including the cost of materials used for editing redacting information, but not including staff time for this task).

The following costs **cannot** be included in this calculation: -

- Checking whether the request meets the requirements of the FOIA;
- Locating information due to poor records management practice;
- Considering the application of an exemption;
- Applying a public interest test;
- Obtaining internal or external legal advice;
- Considering whether a request is vexatious or repeated;
- Repeating an activity already undertaken;
- Employee time for editing or redacting information;
- Obtaining authorisation to provide information;
- Calculating any fees to be charged;
- Issuing a fees notice;
- Providing advice and assistance.

Appendix B – Making Fee Payments

The preferred method of payment is online by debit or credit card at www.northlincs.gov.uk or by cheque. Cheque payments should be forwarded to the Information Governance Team at the following address unless otherwise advised in the fee request letter:

North Lincolnshire Council
Information Governance Team
Hewson House
Station Road
Brigg
DN20 8XB

If you unable to pay by debit or credit card or by cheque please telephone the council's Contact Centre on 01724 297000 or visit one of the council's Customer Support and Advice Teams for assistance. For more information about Customer Support and Advice see the council website.

Appendix C – Disbursement Charges

These costs are designed to recoup the expenditure incurred by the councils in responding to information requests and do not include any profit element.

Photocopies:	Cost
A4 Black & White	10p per sheet
A3 Black & White	20p per sheet
A4 Colour	£1.00 per sheet
A3 Colour	£1.50 per sheet
Other sheet sizes	Pro rata at the Council's standard rate.
Specialist documents i.e. plans or maps	Will be charged at the discretion of the Council, following discussion with the enquirer.
Computer generated printouts:	Cost
A4 Black & White	10p per printed page
A4 Colour	50p per printed page
A4 Photo quality paper prints	£1.00 per printed page
Scanning of images:	Cost
A4 Paper Records	£1.40 per image
A3 Paper Records	£2.10 per image
Print outs from microfiche:	Cost
All sizes	Will be charged at the discretion of the Council, following discussion with the enquirer.
Electronic Media:	Cost
CD Rom (700Mb)	£1.00
Floppy Disc	Not supported by the Council
Telephone:	Cost
Telephone calls	May be charged at the discretion of the Council, following discussion with the enquirer. Standard call rates will be applied.
Fax:	Cost
Fax cover sheet	10p
To UK & Ireland	£1.00 per page
To Europe	£1.75 per page
To rest of the World	£2.00 per page
Email:	Cost
Email attachment	No charge - If the data is already held in an electronic format.
Binding:	Cost
A4 Ring binders	£2 per binder
Postage:	Cost
Postage cost	Standard Royal Mail rates will apply. Unless otherwise specified documents will be sent by second class post.
Packaging	£1 per parcel irrespective of size or weight