



Environmental Information Regulations (EIR) 2004

When we will charge for requests involving large amounts of environmental information – paper or electronic format

Author	
Policy created	March 2017
Policy created by	Customer Services Technical Support Officer (Planning)
Policy reviewed	By Regulatory Solicitor, Complaints & Information Assurance Officer in April & September 2020
Policy review due	September 2022

Policy

Summary

Purpose

This policy and procedure set out when we will charge for particularly complex requests for environmental information. By 'complex' we mean any request that will take more than 2 hours to locate, extract and collate the information requested. This includes requests where information is requested in electronic or paper format.

Nothing in this policy or procedure is intended to detract from our overriding duty to release environmental information, or prevent us from engaging the Manifestly Unreasonable exception where appropriate.

Distribution - who needs to be aware of this policy?

This Policy applies to all employees of St Albans City & District Council ('we'/'us') including elected Members, contract, agency and temporary staff, volunteers and employees of partner organisations working for the Council. It also applies to information held on our behalf by contractors.

The EIR Charging Policy applies to all environmental information held by us, which may fall under the EIR Regulations, including information which we hold on behalf of another person. The EIR Charging Policy also applies to information held by another person on behalf of the Council, including information held by contractors and partner organisations on the Council's behalf.

Context

Background - why this policy is needed?

The Environmental Information Regulations 2004 (EIR) give rights of public access to information held by public authorities. The aim of the EIR is to ensure comprehensive access to environmental information.

The EIR allows public authorities to charge for making environmental information available, but any charge must be reasonable. The Information Commissioner (ICO) states that any charges should be compatible with encouraging transparency and should not be an obstacle to such access.

In general, a reasonable charge may include the disbursements costs in transferring the information to the applicant, whether in paper format or electronically, and the staff time taken to locate the information.

This policy sets out how we should comply with the charging regime laid out in Regulation 8 of the EIR and, in particular, what constitutes a “reasonable amount”. As a general rule the charges should not exceed the actual costs of producing the material in question. The purpose of charging is to recover the costs incurred in complying with requests and managing demand.

Objectives

In light of updated guidance from the ICO regarding “Charging for Environmental Information”, this policy sets out our process for charging for EIR requests.

Scope – what the policy covers

This policy relates to information requests processed under the Environmental Information Regulations 2004 (EIR). If the information is not environmental information, the EIR are not relevant and public authorities will instead need to consider the charging regime under FOI.

Procedure

What is Environmental Information?

Only environmental information can be charged for under this policy. Where a request is logged under FOIA, this does not prevent the request being dealt with under EIR where it becomes apparent that this is the correct regime.

For guidance on what the ICO considers is Environmental Information – follow this link:

http://ico.org.uk/for_organisations/environmental_information/guide/~/media/documents/library/Environmental_info_req/Introductory/EIR_WHAT_IS_ENVIRONMENTAL_INFORMATION.ashx

What can be charged?

There are two types of activity under EIR that public authorities can charge for:

- 1) The cost of staff time (salary and overheads) spent locating, retrieving and extracting the information;
- 2) The costs incurred when printing or copying the information and sending to the applicant.

The Council must be able to demonstrate why a charge in a particular case is reasonable. The Council should provide a breakdown of charges so the requestor can understand the basis for the fee. Staff should use the Council's "EIR Charging Template" (Appendix A) to demonstrate this.

What cannot be charged for?

There are three costs the Council cannot charge for:

- 1) the costs of maintaining a register of information or a database;
- 2) overhead costs (e.g. wider staff overheads);

3) staff time spent reading and redacting information (although there are cases where staff time in this instance can be taken into account when considering if a request is Vexatious/Manifestly Unreasonable due to excessive burden on staff resource and time).

In addition, the ICO is clear that requestors should not be unfairly penalised in cases where the authority has failed to keep records in a reasonably accessible state. Therefore, where our systems prevent easy access to information purely because of records management issues, staff should consider whether it is appropriate to charge.

We cannot charge applicants for inspecting the information or accessing public registers or lists of environmental information.

The Council cannot make a charge specifically for allowing access to the information at the Council offices. However, the EIR do allow the Council to make a charge to recover the costs of locating the information and collating it in order to make it available for inspection. A charge made for locating and collating information to be inspected must be reasonable. If the information is held in a system that allows for straightforward public access it is unlikely that a charge is reasonable. EIR allows the authority to make a charge if a requestor asks for inspection of material that would require a significant cost to prepare for inspection.

Schedule of Charges

Public authorities must have a published schedule of charges in order to be able to charge applicants for environmental information. Currently the Council uses the following rates:

Planning & Building Control information 2020/2021

£25.75 – as the hourly rate for calculating the value of staff time.

Regulatory information 2020/2021

£32.97 – as the hourly rate for calculating the value of staff time.

This is calculated on actual staffing costs to the Council.

Where we send the information in paper format we will charge:

2p per A4 mono sheet (double-sided), 20p per A4 colour sheet (for photocopying charges).

Other photocopying costs will be in line with our published costs in the Council's [Register of Fees and Charges](#).

Charging Threshold

The authority will only charge for EIR requests where the time taken to comply with the request is estimated to exceed 2 hours. Staff should use the Council's "EIR Charging Template" (Appendix A) to estimate how long it will take to comply with a request. If complying with a request that will exceed the 2-hour threshold, the requestor will be charged for the total number of hours it takes to complete the request.

Manifestly Unreasonable

Where it is estimated that complying with a request will take an excessive amount of time, we will consider whether the request is in fact Manifestly Unreasonable under Regulation 12(4)(b) of the EIR. We will consider whether the exception applies, including the public interest test and the necessity to provide advice and assistance to the requestor in order to assist them in narrowing the scope of their request. The 18 hour/ £450 limit exemption used to determine if a request exceeds an appropriate limit under the FOIA, is an appropriate starting point when applying this exception. However, other factors will be considered in line with the ICO Guidance on regulation 12(4)(b).

Issuing a Charge

The decision to issue a charge needs to be made promptly. It will normally be made within 10 working days of the receipt of the request. To issue a charge, the EIR Fees Notice Letter (Appendix B) should be sent to the requestor, which informs the requestor that a fee is payable; how the fee was calculated; how to make payment;

how long the requestor has to make a payment; and, if they are concerned about the level of costs, gives the requestor the option of narrowing their request.

Advance Payment

In all cases where a fee is charged, payment will be required in advance of disclosure. The fee charged will be based on an estimated cost calculated from the completion of the Charging Template. Requestors will have 60 days for payment to reach the Council. Where payment is not received, it will be assumed that the information is no longer required and the request terminated.

Payment can be made by cheque payable to St Albans District Council or over the telephone by calling 01727 819221, quoting the EIR reference and ledger code. The payment will then be assigned under the relevant ledger code by the Council.

Refunds

If the actual cost of complying with the request turns out to be less than the estimate, the balance will be returned to the requestor where it exceeds £10. In addition, if the authority fails to comply with the 20-working day limit to comply with the request (or 40 working days where extended due to the case being “complex or voluminous”), a refund will be issued to the requestor.

Affordability Issues

The Council recognises that paying a charge will not be financially viable for some people. The Council will therefore offer requestors reasonable advice and assistance in order to help them narrow down the scope of their request, to bring them within the charging threshold.

Policy management

The Corporate FOI Team is responsible for implementing and managing the policy, in conjunction with relevant services and partners.

How the impact of the policy will be measured

- Monitor volume of EIR requests received once charging policy introduced
- Number of EIR requests “withdrawn” once charges requested
- Costs recouped by the Council as a result of this policy

Evaluation and review

This policy and procedure will be reviewed every two years to check its effectiveness and update as necessary. The Policy will also be subject to on-going review in light of any changes in legislation or good practice.

Environmental Information Regulations (EIR) Charging Flowchart

EIR Request received –ensure that EIR requests are logged as EIR (can be amended where incorrectly applied as FOI)

Is complying with the request estimated to exceed 2 hours?
(Complete Charging Template to determine the estimated hours and costs involved – see Appendix A)

No - does not exceed 2 hours - No Charge to be made
If under 2 hours there is no charge – therefore continue to process request for free within required time limits

Yes - exceeds 2 hours but not manifestly unreasonable/over 18 hrs - Charge to be made
Using information gathered on charging template – Send “EIR Fees Notice Letter” (Appendix B) within 10 working days of receiving the request - requesting the required fee before continuing with request. This letter also offers the requestor the option of narrowing down their request to bring under the charging threshold of 2 hours. Once fees notice letter sent – “suspend” case on Civica

Yes – exceeds 18 hours –Manifestly Unreasonable.
If it’s estimated that to comply with the request will exceed 18 hours this is potentially deemed manifestly unreasonable. “EIR Manifestly Unreasonable Letter” to be sent if appropriate.

Narrowed down request received from

Fee received from requestor

No response received from requestor within 60 days of letter

Does narrowed down request bring it under the charging threshold of 2 hours?

20 working days (or 40 working days if extended) timeframe resumes (minus days taken between logging and fee request)

Terminate request on Civica

Yes – comply with request for free within 20 working days

No – send further EIR Fees Notice Letter to requestor

Keep record of number of hours spent on request – if less hours than charged for – refund to requestor will be required (if over £10)

If 20 working days deadline is not met (or 40 working days where valid extension applied) then refund to requestor will be required.

Appendix A

EIR Charging Estimates

Please consider these two questions before beginning response:

Ref No:

Officer Completed:

1. Does request exceed the “threshold” of 2 hours to process? (Please complete template)

As per our calculations all tasks are charged at £25.75 / hour for planning information and at £32.97/ hour for regulatory information

Charging Element	Hours/Mins	Cost
<ul style="list-style-type: none"> • Reviewing e-mails (2 minutes for short emails and 4 minutes for long emails: How many e-mails?) • File checks within EDRMS (5 minutes per document: How many documents?) • Other document checks, hard copies etc. (5 minutes per document: How many documents need to be checked?) • 3rd Party Consultation: discussions/consultations with any affected 3rd party. (15 minutes per 3rd party: How many discussions are needed?) • Liaison with other SADC Council Officers (30 minutes per officer: How many officers will need to be spoken to?) • Legal Advice – 15 to 30 minutes depending on query • ‘Mail Box/network’ search (time will be confirmed once information has been submitted to It for review) • Discussing the request with other ‘Key Officers’ (15 minutes per officer: How many other key officers need to be spoken to?) • Complaints & FOI Team log / 		

<p>processing the request. (15 minutes per request)</p> <ul style="list-style-type: none"> • Final ‘sign off’. (15 minutes – to include preparing the response beforehand) <p>Other possible charges:</p> <ul style="list-style-type: none"> • Time taken to determine whether SADC holds the information – if not included above • Time taken to locate the information – if not included above • Time taken to retrieve the information (e.g. from storage) – if not included above • Time taken to extract the relevant information from larger documents – if not included above (not including editing/redaction) 		
<ul style="list-style-type: none"> • Other (Is there anything else apart from the above charging elements that need to be considered?) 		
<p>Total</p>		<p>£</p>

2. If the request does exceed the threshold of 2 hours, how could the applicant narrow down their request to bring it under the limit? Please give details below so that they can be suggested to the applicant.

If not, should SADC charge any disbursement costs for supplying information? (Please complete template)

Table 1 Formatting/Printing Costs (if applicable)

		Charge for Request
CD-RW disks	£1.20	
Photocopying charges:		
A0 (841mm x 1189mm) B&W	£6.00 per sheet	
A1 (594mm x 841mm) B&W	£5.00 per sheet	
A2 (420mm x 594mm) B&W	£4.00 per sheet	
A3 (297mm x 420mm) B&W	£0.50 per sheet	
A4 (210mm x 297mm) B&W	£0.02 per double sheet	
A3 (297mm x 420mm) colour	£2.00 per sheet	
A4 (210mm x 297mm) colour	£0.20 per sheet	
Total Formatting Costs		

Table 2 Postage Costs (if applicable)

Postal (admin) charge for sending copies		
Total Disbursement Charges		

Please note that the above has been prepared in accordance with the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004 (the Fees Regulations)

**Appendix B:
SAMPLE LETTER**

**Corporate Services
Head of Service: Simonne deVall**

Our Ref: EIR
Please ask for: Customer Services/FOI Team
Direct Line: (01727) 819209
E-mail: foi@stalbands.gov.uk
Date:

Name
Address
Email (if applicable)

Dear **Title Surname**,

**Your request under the Environmental Information Regulations 2004 [EIR]
[Civica Reference Number]**

Thank you for your information request dated

You have already been informed that much of the information you requested is in the public domain and available on our website/available to view at our offices. However, you have still requested copies in electronic/paper format.

We aim to respond to all requests as fully and promptly as possible and in any event within the 20 working days set out in the EIR.

However, where the type of information being requested causes a burden on resources and staff time, we will consider applying a charge on supplying some types of environmental information. This applies to your request. Therefore, in accordance with the Council's Policy , as the amount of work involved in processing your request will exceed 2 hours, a fee is payable before we can provide you with your requested information.

We have estimated that the cost will be This cost will cover the cost of staff time spent locating, retrieving and extracting the information. It will also include all the disbursement costs, for example, photocopying and postage if required in paper format. If the actual cost turns out to be less than the estimate, the balance will be returned to you if it exceeds £10.

Payment is required before we can continue with your request. The EIR allows us 20 working days to respond to your request from the date of its receipt (extendable to 40 working days in some instances). This time limit is suspended until we receive a payment. As soon as we receive your payment, we will continue work on processing your request.

If we do not hear from you within 60 calendar days of this letter then we will assume that you no longer require the information and we will close the request. Should this occur, then you will need to re-submit your request if you still require the information.

Payment can be made by cheque payable to St Albans District Council, over the telephone by calling 01727 819221 or at the Council Offices at the Payment Kiosk. Unfortunately, payments cannot currently be made online. When making the payment please quote **[enter EIR reference number]** and ledger code **[enter appropriate code]** and advise the person taking the payment that it is in relation to your EIR request.

Or:

We can provide the following information without a charge but any further time spent on your request would exceed the two hour limit:- **[Detail information which can be provided within the threshold]:**

Please contact foi@stalbans.gov.uk to let us know if you would like us to proceed with your request in this way.

If you are dissatisfied with this response the Commissioner's Office recommends that you first refer the matter to the Council. You can do this by writing to foi@stalbans.gov.uk asking for an internal review of my decision. If you wish the Council to undertake an internal review, then you must write to the Council within 40 working days of the date of this letter. We will not consider any requests received after this date unless there are exceptional circumstances for the delay.

You have a right to appeal to the Information Commissioner's Office at the following address: Wycliffe House, Water Lane, Wilmslow, Cheshire SK9 5AF.

Yours sincerely

FOI Coordinator
Corporate Services