



Cumbria County Council
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Foreword

Cumbria County Council believes that public access to its information improves understanding of and strengthens confidence in the work it undertakes. This policy aims to ensure that the Council operates a consistent and fair regime for charging for access to information.

It applies to requests for information falling under Section 1(1) of the Freedom of Information Act 2000 (FOIA), the Environmental Information Regulations 2004 (EIRs), and also subject access requests for personal data under the Data Protection Act 1998 (DPA).

The Council strongly encourages a culture of openness and accountability within its organisation and aims to release as much information as possible both routinely and in response to requests for information.

While the Council does not want to put obstacles in the way of accessing information, larger or more complex requests may require a fee to be calculated and a fees notice issued, as permitted by the relevant legislation.

Key Policy Decisions

- For information released under the FOIA there will be no charge for the cost of staff time in complying with the request where that estimated cost does not exceed £450;
- The Council reserves the right not to comply with an FOIA request where the estimated cost of staff time exceeds £450. In such cases the Council will offer advice on redefining the request so that the cost of staff time falls below that limit;
- In exceptional cases, where the Council has agreed to process requests that exceed the £450 threshold the total costs of staff time at £25 per hour will be charged. The request will not be processed until the full fee is paid;
- For information released under the EIRs there will be no charge for the cost of staff time in complying with the request where that estimated cost does not exceed £450;
- Where the estimated cost of staff time in relation to an EIR request exceeds £450 the total staff time will be charged at the rate of £25 per hour;
- In all cases where any information is released under FOIA and EIRs the disbursement costs set out in the schedule of charges will apply;
- For subject access requests under the DPA there will be no charge and the £10 fee prescribed under the relevant DPA regulations will be waived;
- The Council will not comply with a subject access request under the DPA for unstructured personal data (so-called category (e) data) where the estimated cost of staff time exceeds £450. This policy will not apply to health and social services records where the Council will comply with the request and all personal data will be supplied, subject to any exemptions;
- No charge will be made for disbursement costs for information provided under the DPA, including unstructured personal data

Legislation

The Freedom of Information Act 2000, Environmental Information Regulations 2004, and the Data Protection Act 1998 allow public authorities to charge for answering requests for information in certain cases.

The Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004 set out in relation to FOIA requests and certain DPA requests:

- a limit for the amount of work (the “Appropriate Limit”) which a public authority is expected to undertake in order to comply with a request, and the method of estimating that limit
- for FOIA requests, what costs can be charged

For local government the ‘appropriate limit’ is currently £450. This breaks down as 18 hours of employee time at an hourly rate of £25 per hour spent on certain prescribed activities.

Prescribed Activities consist of the time taken to:

- determine whether the council holds the information requested
- locate the information or a document that may contain the information
- retrieve the information or a document that may contain the information
- extract the information from a document containing it.

Prescribed Activities do not include the following:

- checking that a request for information meets the requirements of FOIA
- locating information due to poor records management practice
- considering the application of exemptions or the public interest test
- consulting third parties whose interests may be affected by the disclosure of information
- taking any necessary legal advice
- considering whether a request is vexatious or repeated
- obtaining authorisation to send out information
- drafting a fees notice
- providing advice and assistance

Disbursements consist of:

- cost of informing the applicant whether the information is held
- communicating the information to the applicant
- meeting the preference expressed by the applicant as to the format
- reproducing any document containing the information
- postage or other forms of transmitting information
- providing extracts of databases
- allowing the applicant reasonable opportunity to inspect a record containing the information

Freedom of Information

The Council does not charge for the cost of staff time in processing requests under the FOIA providing that cost does not exceed the appropriate limit of £450. When estimating the cost of time to comply with a request we will take into account the time it takes us to determine whether we hold the information and to locate, retrieve and extract it.

We reserve the right to refuse to comply with a request where the estimated cost of these activities exceeds £450 as it is unlikely that the diversion of resource from the Council’s function will be seen as justified.

However, before we refuse a request on this basis, we will work with you to see whether we can provide the information in other ways or modify the request so that it does not exceed the appropriate limit.

In exceptional cases where we have agreed to process a request that will exceed the statutory limit of £450 you will be asked to pay the total costs of staff time at the rate of £25 per hour. We will not proceed with your request until the full fee has been paid.

There is no charge made to view information which the Council is required by statute to make available to the public or for most leaflets, brochures, and pamphlets produced by the Council on a diverse range of subjects.

Charges will be made for the supply of specific documents as detailed in the Council's Publication Scheme.

The Council will always charge the disbursement costs set out in the schedule of charges, whether or not there is a charge for staff time.

If the Council receives two or more requests for the same or similar information, within 60 days of each other, from an individual or group of individuals who appear to be acting together or in pursuance of a campaign, we may be entitled to aggregate the costs of processing the requests.

This provision is designed to prevent individuals or organisations placing an unreasonable burden on the Council or undermining the 'appropriate limit' by splitting a request into smaller parts.

The Council will consider carefully whether requests should be combined, and will make decisions about combined requests on a case by case basis.

Environmental Information

In responding to requests for information under EIRs the Council is entitled to charge a reasonable amount towards making the information available.

The Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004 do not apply to requests under the EIRs. There is therefore no limit on the cost of staff time that can be spent on responding to such requests.

However the EIRs permit the Council to refuse to respond to a request which is formulated in too general a manner, where the Council has asked for more particulars and provided advice and assistance. A request can also be refused where it is manifestly unreasonable.

We have nonetheless had regard to the regulations in deciding that there will be no charge for the cost of staff time on the activities described in the above fees regulations up to £450 at a notional rate of £25 per hour. If those costs exceed £450 you will be asked to pay the total staff costs involved in dealing with the request at the rate of £25 per hour for those activities.

You will not be charged for examining the requested information (as opposed to having it sent to you) or accessing any public registers or lists of environmental information held by the Council.

Different charges will apply to searching historic environment records; planning information and decision notices as specified in the Schedule of Charges.

Data Protection

The General Data Protection Regulation (GDPR) takes effect on 25 May 2018 and introduces a number of changes to the way the council can charge for responding to Subject Access Requests:

- it removes the £10 subject access fee meaning that requested data must be provided free of charge;
- a 'reasonable fee' can be charged when a request is manifestly unfounded or excessive, particularly if it is repetitive;
- a reasonable fee may be charged to comply with requests for further copies of the same information. (Note: this does not mean that a charge can be made for all subsequent Subject Access Requests);
- any applicable fees must be based on the administrative cost of providing the information.

This is significant change from existing arrangements under the Data Protection Act 1998.

The council waived the right to charge the statutory subject access request fee in 2009. and had the option to apply the appropriate limit to handling requests for unstructured data (with the exception of health and social care data).

Also at present the appropriate limit of £450 in the 2004 Fees Regulations applies to subject access requests for unstructured personal data under the DPA. This limit will not apply to health and social services information. There will be no charge for disbursement costs.

Disbursements

The Council at its own discretion will determine to waive all costs under £5.00 in respect of a single request but above this sum the full disbursement costs associated with processing requests will be charged. Examples of disbursements include the cost of postage, reproducing the information and printing.

Fees Notices

Where a charge is payable, a fees notice will be given to the applicant before the request is answered, specifying the amount of the charge.

The fees notice will be given within the period of 20 working days following receipt of the request.

FOI requests have to be answered promptly not later than the 20th working day following date of receipt. Where a fees notice is issued, the period between the issue of the fees notice and the date when the fee is paid is disregarded in calculating the 20 day deadline.

EIR requests have to be answered not later than the 20th working day following the date of receipt, although this can be extended to 40 working days for information whose complexity or volume renders it impracticable to comply with the earlier period. The period between the issue of the fees notice and the date when the fee is paid is disregarded in calculating the deadline.

If the actual cost of answering the request is greater than the notified cost, the council will bear the additional cost.

If the actual cost of answering the request is less than the estimated cost charged, the council will refund the excess if the difference is over £10.

If the required fee is not paid within the periods set out below, the Council does not have to respond to the request. The periods are:

- 3 months from the date the fees notice was given in the case of an FOIA request;
- 60 working days from the date the fees notice was given in the case of an EIR request

Payment should be received and processed before a request is actioned and any associated information is disclosed.

The Council will not charge for:

- providing information in an alternative format if the Disability Discrimination Act (DDA) covers the person requesting it or the Race Relations Amendment Act applies unless the original document was a priced publication. In this case, the charge for the alternative format will not exceed the cost of the original publication;
- supply of information in a different language where requested (if English is not the applicant's first language);
- advising on the availability of information (unless research into historical records is needed in order to provide that advice);
- inspection of public registers, or examination of information on premises of council or other premises made available for that purpose;
- overheads, including IT running costs, superannuation costs, building related costs (heating, lighting etc)

HM Revenue and Customs normally consider that most of the information released under the FOIA, EIR and DPA constitutes a non-business activity where the information could only be provided by a public authority. As such any fees and charges will be 'outside the scope' of Value Added Tax (VAT). This means that no VAT should be added to fees.

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. This distinction is made so as not to distort competition between the public and private sector.

- if the Council is asked for information and the information is only available from the Council or another public authority, any chargeable fees do not attract VAT;
- if the Council is asked for information that is available from another non-public authority source, any fees do attract VAT.

Questions about VAT should be referred to the Senior Manager – Accountancy.

Cumbria Archive Service: In House Paid Research Service

The wide range of historical records in the custody of Cumbria Archive Service includes those of private individuals and organisations and just those of Cumbria County Council and its predecessor authorities.

Cumbria Archive Service provides free public access to original records or copies of records in its search rooms of the four record offices at Barrow, Carlisle, Kendal and Whitehaven. Opening hours are set out at: www.cumbria.gov.uk/archives

A fee may be charged to carry out research to tell you whether or not we hold specific records. A fee will be charged to carry out research into original records to find specific information. Extended research into original records is carried out through the Historical Research Service.

Cumbria Archive Service also charge for providing copies of documents. The fees are set out on the Council website www.cumbria.gov.uk/archives and in the Publication Scheme.

Most records are available for general access but a few are closed in whole or part because information in them is exempt information under the Freedom of Information Act 2000 or the Environment Information Regulations.

In a very small number of cases records may be closed because they are so fragile that their use would damage the record further. Closures are usually indicated in our catalogue and will be reviewed on request. There is no charge for this review.

Copyright/Re-use of Public Sector Information

Some of the information supplied in response to requests will be subject to copyright protection under the Copyright, Designs and Patents Act 1998. Where this is the case the applicant will be made aware of these obligations.

Under the Re-Use of Public Sector Information Regulations 2005 the Council is required to be transparent and open about the terms it offers for the re-use of information, including charging. The Council will provide accurate notices and statements on its documents, which will explain copyright, ownership and arrangements for re-use where applicable. There is a separate policy concerning re-use of, as opposed to access to, information. The policy deals with charging arrangements for re-use.

Complaints

If the applicant does not agree with the proposed fee, they can appeal through the Council's Internal Review procedure by writing to:

Information Governance Team
Resources and Transformation
Cumbria County Council
Cumbria House | 1st Floor | 117 Botchergate | Carlisle | CA1 1RD
Email: information.governance@cumbria.gov.uk
Website: [Online Form](#)

Policy Review

The policy and schedule of fees will be reviewed annually.