



Access to Information

Charging Policy & Procedures

v1.0

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Access to Information Charging Policy

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Policy Aim

This policy aims to ensure that Denbighshire County Council operates a consistent and fair regime for charging for access to information.

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

This policy does not apply to information which is otherwise available either:

- Under statute
- Through the Council's Publication Scheme

The above legislation 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 this policy. Where information is otherwise available, this means the rules for costing and charging for compliance with the Act do not apply.

Summary of Key Policy Decisions

- For information released under the FOIA there will be no charge for requests costing less than £450 (2.1)
- For information requested under the FOIA which is estimated to exceed £450 DCC will refuse to respond to the request (2.4)
- For information released under the EIR there will be a standard fee of £25 per hour (3.2)
- For information released under the DPA the fee of £10 will be charged for all requests, with the exception of social services records (4.4)
- For information released in all cases under FOI or EIR the disbursement costs will be as set out in the policy (Appendix A)
- All income from requests for information to be credited to Detail Code 9354 – Access to Information (6.7)

Policy Statement

Introduction

The Freedom of Information Act, Environmental Information Regulations, and the Data Protection Act allow public authorities to charge for answering requests for information in certain cases. This policy aims to set out the fees to be levied by Denbighshire County Council for such requests, and outlines:

- when Denbighshire County Council will charge fees
- how fees will be calculated
- the procedures that will be followed.

Scope of Policy

The Policy applies to all Members, Officers, and other staff within Denbighshire County Council.

It also applies to employees and agents of other organisations when they are acting as agents of the Authority.

Policy Statement

Denbighshire County Council believes that public access to its information improves understanding and strengthens confidence in the work it undertakes. The Council strongly encourages a culture of openness and accountability within the organisation and aims to release as much information as possible both routinely and in response to requests for information.

1 Fees Regulations

- 1.1 The method of calculating charges within this policy is in line with The Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004.

2 Charges for Freedom of Information Requests

- 2.1 Under Regulation 3 of the Fees Regulations, the 'appropriate limit' is set at £450 (£600 for central government and Parliament). Information will be supplied free of charge for requests costing less than £450, apart from any disbursement costs (see 6) that apply.
- 2.2 Based on the standard hourly rate of £25 specified in the Fees Regulations the maximum time spent finding, retrieving, collating and editing information before it exceeds the £450 cost limit is 18 hours or 2½ days.
- 2.3 Public authorities are not obliged to respond to a request where it is estimated the cost of complying exceeds the appropriate limit level of 18 hours or 2½ days (i.e. £450).
- 2.4 Where the request is estimated to exceed the £450 appropriate limit cost (2½ days work equivalent combined across all services involved) Denbighshire County Council will refuse to respond to the request as it is unlikely that diversion of resource from the Council's function will be seen as justified. In such cases Council staff will discuss with the applicant ways of refining the request to a manageable level.
- 2.5 The value of £450 is calculated in staff time undertaking the following duties in relation to the request:
- Determining whether the information is held
 - Locating and retrieving the information

- Editing or extracting the information to be disclosed from other information, including the first time an individual working on the request reads information for this purpose (although subsequent readings, or if the information is passed to others to read, will not be included)
 - Communicating information. This does not include the cost of disbursements (see 6), but can include the time taken to write a response to the request, edit or redact the information.
- 2.6 The following duties in relation to the request cannot be taken into account when calculating the time spent/costs:
- 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, including legal advice, prior to sending out the information
 - Considering whether a request is vexatious or repeated
 - Obtaining authorisation to send out information
 - The time taken to calculate the fees notice
 - Providing advice and assistance
 - Overheads, including IT running costs, superannuation costs, building related costs (heating, lighting etc)
- 2.7 If a request is particularly wide-ranging, and therefore likely to be resource intensive and expensive to answer, a member of staff will discuss this with the applicant to see if the question could be refined to a more manageable level.

3 Charges for Environmental Information Requests

- 3.1 There is no appropriate limit for requests dealt with under the Environmental Information Regulations (EIR). Denbighshire County Council can apply a reasonable charge for responding to all EIR requests.

- 3.2 Denbighshire County Council will charge the standard fee of £25 per hour or part thereof for all requests for environmental information as specified in the Fees regulations. Disbursement costs may also be charged (see 6).
- 3.3 Denbighshire County Council will publish a schedule of charges for any specific environmental information services and information for which a standard fee is payable.

4 Charges for Data Protection Requests

- 4.1 Requests relating to personal information will be dealt in accordance with the Data Protection Act 1998.
- 4.2 Denbighshire County Council can charge a nominal fee of £10 under the Data Protection Act. No other charges can be made for disbursements as with FOI and EIR requests.
- 4.3 Under the Data Protection (Subject Access) (Fees and Miscellaneous Provisions) Regulations 2000, the maximum fee which may be required by a data controller is £10.
- 4.4 Denbighshire County Council will charge the fee of £10 for all requests for personal information as entitled to under the Data Protection Act, with the exception of social services records
- 4.5 There will be no charge for social services records if the information is less than 100 pages. For all pages after 100 there will be a £10 charge - the exception to this being people formally in the care of the County Council who will not be charged for any access to file requests. Adoptive persons are legally entitled to the original file rather than copies.

5 Disbursement Costs for FoI & EIR Requests

- 5.1 Denbighshire County Council will charge for disbursements.
- 5.2 Disbursement costs 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-tape
 - Providing extracts of databases

- Translating information into a different language at the request of the applicant
 - Allowing the applicant reasonable opportunity to inspect a record containing the information
- 5.3 The cost of disbursements does not cover the cost of putting the material into 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 providing it is in accordance with Denbighshire County Council's Welsh Language Scheme.
- 5.4 Denbighshire County Council will charge for disbursements for FOIA or EIR requests as outlined in Appendix A.
- 5.5 Denbighshire County Council can charge for disbursements in all cases. Fees notices will be issued for any disbursement costs before the information is disclosed (see 7). In cases where the total cost is less than £5 these charges may be waived.

6 Fees Notices

- 6.1 Where charges are indicated, a fees notice will be issued before the request is answered, giving an estimate of the costs involved (*Appendix B*). An applicant has three months to pay; if payment is not received within three months then Denbighshire County Council does not have to answer the request.
- 6.2 FOIA requests have to be answered not later than the 20th working day 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.
- 6.3 EIR requests have to be answered not later than the 20th working day following date of receipt, although this can be extended to 40 working days for requests deemed to be complex or very large. 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.
- 6.4 DPA requests have to be answered not later than the 40th consecutive day following date of receipt. Where a fee applies the date between the issue of the fees notice and the date when the fee is paid is disregarded in calculating the 40 day deadline.

- 6.5 If the actual cost of answering the request is greater than the estimated cost, Denbighshire County Council will bear the additional cost.
- 6.6 If the actual cost of answering the request is less than the estimated cost charged, Denbighshire County Council will refund the excess if the difference is over £10.
- 6.7 All income from requests for information should be credited under Detail Code 9354 – Access to Information.
- 6.8 Payment should be received before a request is actioned and information is disclosed. Credit, in the form of a sundry debtor invoice, should not be granted.

7 Combining Requests

- 7.1 Requests can be combined in specified cases for the purposes of calculating fees where two or more requests for information are made to DCC where:
- They must be either from the same person, or from different persons who appear to be acting together or in pursuance of a campaign
 - The requests must relate to the same or similar information
 - They must have been received within a space of 60 consecutive working days.
- 7.2 This provision is designed to prevent individuals or organisations undermining the ‘appropriate limit’ by splitting a request into smaller parts.
- 7.3 Denbighshire County Council will exercise caution when considering whether requests should be combined, making decisions about combined requests on a case by case basis.
- 7.4 Whilst there is no ‘appropriate limit’ for EIR requests, the Council will apply the same principles for the purposes of charging combined requests.

8 Value Added Tax

- 8.1 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.
- 8.2 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.
- 8.3 Basically:
- 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. Cases of doubt may be referred to the Technical Section, Central Finance.

9 Copyright / Re-use of Public Sector Information

- 9.1 Some of the information supplied will be subject to copyright protection under the Copyright, Designs and Patents Act 1998. Where this is the case the requestor will be made aware of these obligations.
- 9.2 Under the Re-Use of Public Sector Information Regulations 2005 Denbighshire County Council is required to be transparent and open about the terms they offer for the re-use of information, including charging. As such the Council should provide accurate notices and statements on its documents, which will explain copyright, ownership and arrangements for re-use where applicable.
- 9.3 Denbighshire County Council will produce, from time to time, an asset list so that potential re-users of information know what is available for them to re-use. This asset list will include both published and unpublished information.

- 9.4 It is recommended that information listed in the asset list should be provided at a marginal cost, but the Regulations state that the cost of information made available for re-use can include the cost of production and a reasonable return on investment. However charges must be consistent and fair.

Responsibilities

Review of Policy and Further Information

Denbighshire County Council is committed to complying with its duty to provide access to information. The Authority's officers and Members are ultimately responsible for complying with this policy.

This policy will be reviewed regularly to ensure that it remains up to date, effective and takes account of emerging good practice. Where new legal directions come into force, the policy will be reviewed in line with the commencement date of that legislation.

Further information on the legislation referred to in this policy can be found at:

www.denbighshire.gov.uk	Access to Information
www.opsi.gov.uk	Freedom of Information Act 2000 (FOIA) Data Protection Act 1998 (DPA) Environmental Information Regulations 2004 (EIR) FOIA and DPA (Appropriate Limit and Fees) Regulations 2004
www.dca.gov.uk	Guides on FOIA and DPA
www.ico.gov.uk	Regulatory body for FOIA, DPA and EIR

Definition of Terms Used in this Policy

Appropriate limit	The cost limit set by the Fees Regulations for the cost/time taken to respond to a request for information under FOI
Asset list	An information asset list records information resources held by Denbighshire County Council, concentrating on unpublished resources. In doing so it enables users to identify, from one single source, the information held in a wide variety of departments.
Disbursement costs	The cost of physically producing the information and sending it out.
Environmental information	See Appendix C.
Exemptions	Some information is exempt from disclosure. Specific exemptions may apply however in most cases it will be necessary to consider whether the public interest test applies.
Personal information	Information relating to living and identifiable individuals which is biographical in a significant sense.
Public interest test	When applying the public interest test, Denbighshire County Council is simply deciding whether in any particular case it serves the interests of the public better to withhold or to disclose information.
Publication Scheme	A public commitment to make certain information available and a guide to how that information can be obtained.
Reasonably accessible	If there is another route by which someone can obtain information there is no need for Denbighshire County Council under FOIA to provide access, e.g. where it is already available by means of other legislation or if it is available via the Council's publication scheme.
Vexatious request	If the main effect of the request would be disproportionate inconvenience or expense, then it would be vexatious.

Policy Management Information

Policy Owner	Information Management Action Team (IMAT)
Policy Approved by	MMC
Date of Policy Approval	6 th July 2006
Date of Policy Review	
Date of Policy Update	
Reason for Policy Update	
Date of Next Review	

Policy Review

The policy will be reviewed at intervals of not more than 5 years.

Legal Compliance

This policy has been audited for compliance and compatibility with relevant legislation. At the time of ratifying this policy, the Policy Owner was satisfied that this document is compliant with all relevant legislation, including Data Protection Act 1998, Freedom of Information Act 2000, and Environmental Information Regulations 2004.

Public Disclosure of the Content of this Policy

This policy is authorised for general public disclosure.

Associated Documents

- Freedom of Information Policy
- Data Protection Policy

Appendix A – Access to Information Fees

Copy type	Cost per sheet
A4 black & white (printer or photocopy)	£0.10
A4 colour (printer or photocopy)	£1.00
A4 fax to UK / Ireland	£0.10
A4 fax to Europe	£0.10
A4 fax to rest of world	£0.10
A4 scanned (per page)	£0.10
A3 black & white (printer or photocopy)	£0.20
A3 colour (printer or photocopy)	£1.50
A3 scanned (per page)	£0.20
A2 black & white (printer or photocopy)	£1.10
A2 colour (printer or photocopy)	£7.00
A1 black & white (printer or photocopy)	£1.50
A1 colour (printer or photocopy)	£8.00
A0 black & white (printer or photocopy)	£2.50
A0 colour (printer or photocopy)	£10.00
E-mail attachments	No cost

Full postage costs to be recovered. Documents will be sent by second class mail unless specified otherwise.

Actual costs incurred when providing information in other formats, e.g. CDs, floppy discs, audio or video cassettes.

All income from requests for information to be credited to Detail Code 9354 – Access to Information.

Appendix B – Fees Notice

NAME
ADDRESS
ADDRESS
ADDRESS
POST CODE
REF
DATE

Dear NAME,

I am writing regarding your request for information, which was received on [date]. In this case, a fee is payable to us before we can provide you with the information. This fee of £XX.XX covers the costs of [i.e. photocopying, printing, transferring to CD-ROM, posting to applicant] and has been calculated in accordance with the relevant legislation.

We are unable to continue processing your request until this fee is paid. If you wish the department to continue to deal with your request you should pay the fee requested within three calendar months (by [date]). Payments should be made payable to Denbighshire County Council and should be sent to the address at the bottom of this letter marked for my attention. If the department does not receive payment of the fee by this date, I shall take it that you do not wish to pursue this request and I will consider the request closed.

If you have any queries about this letter, please contact me. Please remember to quote the reference number above in any future communications. If you are unhappy with the service you have received in relation to your request and wish to make a complaint or request a review of our decision, you should write to the Public Relations Department, County Hall, Wynnstay Road, Ruthin, LL15 1YN.

If you are not satisfied with the outcome of your complaint, you may apply directly to the Information Commissioner's Office (ICO) for a decision. Generally, the ICO cannot make a decision unless you have exhausted the complaints procedure provided by Denbighshire County Council. The ICO can be contacted at: Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire SK9 5AF.

Yours sincerely,

[Name of issuing officer]
[Job Title]

Appendix C – Environmental Information

The Environmental Information Regulations 2004 provides access to all information regarding the local environment held by the Council.

The Environmental Information Regulations 2004 came into force on 1 January 2005 and replaced the Environmental Information Regulations 1992.

What is environmental information?

The definition of environmental information is very broad and includes information on:

- the state of the elements of the environment, such as air, water, soil, land, landscape and natural sites, flora and fauna
- the state of human health and safety, conditions of human life, the food chain, cultural sites and built structures in as much as they are or may be affected by the state of the elements of the environment.
- factors affecting the environment, such as substances, energy, noise, radiation or waste.
- measures and activities affecting, or intended to protect, the state of the elements, such as policies, legislation, plans, programmes and environmental agreements
- emissions discharges and other releases into the environment
- cost-benefit and other economic analysis used in environmental decision-making