



ENVIRONMENTAL INFORMATION REGULATIONS (EIR)

Fees and Charges Policy

This policy is to be used in conjunction with the Wakefield Council Information Governance Framework.

1. Purpose

The overall aim of this policy is to establish whether an Environmental Information Regulation (EIR) request will be subject to a charge and if so, the process of determining the charge to be made, issuing the charge, receiving payment and processing the request for information.

2. Scope

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

- The Environmental Information Regulations 2004 (EIRs)
- The Council will provide advice and assistance to help people make requests under the EIR. The Council aims to respond to all requests promptly and within the statutory response period of 20 working days following receipt of a valid request.
- In cases where information is covered by an exception or other legislation, consideration is given as to whether or not it is in the public interest to disclose regardless of the exception cited.
- The Council is committed to conducting its affairs in a transparent manner and enabling public access to its information, whilst ensuring the integrity of its information and protecting the privacy of its customers.

This policy does not cover Subject Access Requests (requests for access to information about a living individual which could identify them). These requests are exempt from the EIR under regulation 13, and should be processed in accordance with the Data Protection Act 1998 (DPA). The Council will carefully consider its responsibilities under the DPA before disclosing personal data about living individuals, including current and former officers, members and users of its services, where it might arise in the processing of a request for information under EIR.

This policy does not relate to data held by schools, as they are public authorities in their own right and responsible for their own EIR compliance.

This policy does not apply to the levying of fees and charges for requests falling under the Freedom of Information Act 2000 (FOIA).

3. Roles & Responsibilities

All employees are responsible for ensuring that any request for environmental information they receive is dealt with in line with the requirements of the EIR and in compliance with this policy and should liaise with the Corporate Information Governance Team.

All staff must recognise that all recorded information may be provided to the public, and that the law requires that there will be full and unconditional disclosure in every case unless one of the statutory exceptions applies.

The Council will take account of any guidance which is issued by the Information Commissioner to promote good practice.

4. Environmental Information Regulations 2004(EIR) – Background

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.

In general terms, environmental information is information about land development, pollution levels, energy production and waste management. EIR also includes information which relates to the state of human health and safety e.g. contamination of the food chain, living conditions; cultural sites and built structures where effects on these from the elements impact on human health and safety.

- The Regulations require public authorities to make environmental information available proactively; and enable members of the public to request environmental information from public authorities.
 - The principle behind the law is that giving the public access to environmental information will encourage greater awareness of issues that affect the environment. Greater awareness helps increase public participation in decision making; it makes public bodies more accountable and transparent and it builds public confidence and trust in them.
 - There is a presumption in favour of disclosure. Access to information can only be denied if an exception (i.e. an exemption) is cited in accordance with the legislation subject to the public interest test dictating that the information should not be disclosed.
 - The Regulations state that the 20-day period for complying with a request for information can be extended to 40 working days, to allow time to locate and provide the information:
 - when a request is for a large amount of information that is complex; and
 - it would be impracticable to comply with the request or decide to refuse to comply within 20 working days.
 - In this case, the Council will inform the requester within 20 working days that more time is needed to respond.
 - The EIR is regulated by the Information Commissioner (ICO).
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5. Charging for Environmental Information

The EIR allow public authorities to charge for making environmental information available, but any charge must be reasonable. The 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 and the staff time taken to locate the information. (This is in contrast to the Freedom of Information Act (FOIA) where disbursements are the only charges permitted unless the appropriate costs limit is exceeded.)

This policy sets out how Wakefield Council should comply with the charging regime laid out in Regulation 8 of the EIRs 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.

In respect of any request for information the Council reserves the right to:

- Refuse requests on the basis that they are manifestly unreasonable, subject to a public interest test. Under the Environmental Information Regulations there is no ‘cost limit’ for dealing with requests, but requests that cost a disproportionate amount can be refused under regulation 12 (4) (b);
- Refuse requests for copies of information where it is shown that EIR Regulation 5 or 6(1) (b) has been complied with and the information is already accessible either for inspection, at a public library or published on a website, or other public resource.

6. Schedule of Charges

There are two broad types of costs for which a public authority can charge:

- The cost of staff time, including overhead costs, incurred when preparing information to be supplied in response to a specific request. This includes time spent locating, retrieving and extracting the information and putting it into the required format.
- The costs incurred when printing or copying the requested information and sending it to the applicant.

Public Authorities must have a published schedule of charges in order to be able to charge applicants for environmental information. The following rates apply for EIR requests from Wakefield Council:

- **£26.00 for the hourly rate for calculating the value of staff time.**
- **More detailed costs are set out at Appendix 1 – Schedule of Charges.**

Regulation 8(2) prevents a public authority from making any charge to access public registers or lists of environmental information it holds, or to examine the information that has been requested at a place made available by the public

Costs associated with maintaining a database cannot be included in charges for supplying environmental information.

The Council may elect to waive the fee if satisfied that there is a genuine and widespread public interest in the publication of the information in question. This is unlikely to be the case where a request appears to be driven by commercial interests or is highly specific in terms of focus or geographical area.

The Council may elect to waive the fee where information is requested which consists of a mixture of environmental and non-environmental information, and the non-environmental information would not be subject to a fee in terms of the FOI legislation.

In these circumstances, the Council reserves the right to consider the waiving of charges on a case by case basis.

7. Processing Charges

The decision to issue a charge should be made promptly and within 5 working days of the receipt of the request wherever possible. A fees notice letter will be sent to the requestor within 20 working days from receipt of the information request, informing them that a fee is payable and how to make the payment, and that if the requester is concerned about the costs, help and assistance can be provided to give them the option of narrowing down their request.

Payment will be required in advance of disclosure. The fee charged should be based on an estimated cost calculated by a senior member of the Corporate Information Governance Team. Requestors will have 60 days for payment to reach the Council, and the fees notice letter will specify the 60 days deadline date. Where payment is not received, a reminder communication from the Corporate Information Governance Team will be issued, 30 days after the original fees notice, reiterating the deadline date. If payment is still not made within the 60 day period, it will be assumed that the information is no longer required, and the Council is not obliged to proceed with the request.

Payment can be made by debit/credit card by telephoning 01924 306112 or by cheque/postal order made payable to Wakefield MDC, and posted to:

The Corporate Information Governance Team
County Hall
Wakefield MDC
WF1 2QW

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 if it exceeds £5.00. Should the cost of complying with the request be greater than the estimate, the Council will meet such excess cost. Liaising with the service area, the Corporate Information Governance Team will keep a record of the number of hours spent on the request where a charge is made in order to ensure consistency and for audit purposes.

8. Further Information

Further guidance and information can be found at the ICO website: ico.org.uk/guide-to-the-environmental-information-regulation

APPENDIX 1**WAKEFIELD COUNCIL – EIR – SCHEDULE OF CHARGES**

ITEM	COST
<u>Photocopies:</u>	
A4 Black and White	10p per sheet
A3 black and white	20p per sheet
A4 colour	£1.00 per sheet
A3 colour	£1.50 per sheet
<u>Prints from a PC</u>	
Black and white	10p per page
Colour	50p per page
Photo quality paper prints	£1.00 per page
<u>Scanning</u>	
A4 paper records	£1.00 per image
A3 paper records	£2.00 per image
Email attachment	No charge
<u>Electronic Media</u>	
CD Rom	£1.00
Floppy disc	£1.00
<u>Postage</u>	
	At face value
<u>Staff time</u>	
	£26.00 per hour