



The Environmental Information Regulation (EIR) Fees and Charging Policy

Policy Statement

1. The Councils are committed to proactively publishing information and providing information when requested, in accordance with relevant legislation. In some instances, the Councils can charge for information and this policy sets out when we will charge. We can charge for particularly complex requests for environmental information. By 'complex', we mean any request that will take more than 3 hours to locate, extract and collate the information requested. This includes requests for both electronic and paper based information.
2. We are aware that the overarching purpose of the EIR is to encourage straightforward access to environmental information. However, in certain circumstances, public authorities can charge for supplying environmental information, but the charge must be reasonable and take into account the aims of the EIRs.
3. This Policy has been produced by referring to the Information Commissioner's Office (ICO) guidance on "[Charging for environmental information \(regulation 8\)](#)". Please refer to the ICO guidance for further information.
4. A routine charge for providing environmental information should be avoided and this Policy provides examples of the type of information that will and will not be charged for (see General Charging Principles below). For example, a charge cannot be made where the requester wishes to inspect information or a public list or register that the Council holds at its offices. However, a charge can be made for preparing and obtaining the information to be viewed, if it is not straight forward to extract it prior to inspection.
5. Allowable costs include staff time, overheads and disbursements. Other costs such as maintaining a database cannot be included. Commercial charges are permitted in relevant circumstances.
6. Information that is not deemed as environmental will be dealt with under the appropriate legislation (such as the Freedom of Information Act 2000, Data Protection Act 2018 and General Data Protection Regulation 2018) and this Policy does not apply to such information.



Scope of Policy

7. This Policy applies to all employees of the Councils, including elected Members, contract, temporary and agency staff, volunteers and employees of partner organisations working for the Councils. It also applies to information held on our behalf by contractors.
8. This Policy aims to highlight the type of information that is subject to charge, how the charge is calculated, the process of applying a charge, how to receive the payment and instances where a charge cannot be applied.
9. The Councils will provide advice and assistance to help people make requests under the EIR. The Councils aim to respond to all requests promptly and within the statutory deadline of 20 working days following receipt of a valid request.
10. In cases where information is covered by an [EIR exception](#) or other legislation, consideration will be given as to whether or not it is in the public interest to disclose the information.
11. This Policy does not apply to the levying of fees and charges for requests falling under the Freedom of Information Act 2000 (FOI).

Purpose

12. The 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.
13. The EIR allows public authorities to charge for making environmental information available, but the charge must be reasonable. The Information Commissioner's Office (ICO) states that any charges should be compatible with encouraging transparency and should not be an obstacle to such access.
14. In general, a reasonable charge may include the disbursements costs in transferring information to the requester, whether in paper format or electronically, and the staff time taken to locate the information.
15. The purpose of this Policy is to show how we comply with the charging regime laid out in Regulation 8 of the EIR and, in particular, what constitutes a "reasonable amount". Generally, the charges should not exceed the actual costs of producing the material in question. The purpose of charging is to recover the costs incurred with complying with requests and managing demand.



16. It is essential that staff and requesters are clear as to the type of information that is deemed as environmental under the EIR, what information will be subject to a charge under Regulation 8 of the EIR, what the charge will be and what special measures and exclusions there are to the Policy.

General charging principles

17. The overarching purpose of the EIR is to encourage straightforward access to environmental information. A charge can be made for supplying the information, as long the charge is reasonable and takes into account the aims of the Regulations. A routine charge for all EIR requests should be avoided. A charge can be made for the following:
- The cost of staff time, including overhead costs, incurred when preparing information to be supplied in response to a specific request. This includes the 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 requester.
18. A charge cannot be made for requests for access to public registers or lists of environmental information held by a public authority, or to examine information that has been requested at a place made available to the public. Costs associated with maintaining a database cannot be included in charges for supplying environmental information. Requesters cannot be penalised for poor records management.
19. Public authorities must have a published schedule of charges in order to be able to charge requesters for environmental information. The Councils' charges are set out in Appendix C.

What information can be provided with or without a charge

20. Any charge made must be balanced against the general principles of making environmental information available where possible and to not routinely apply a charge. Therefore, the Councils have taken the approach that high level factual information should be supplied without charge, whereas underlying and background information (such as email trails informing decisions or results, background documents, third party exchanges and information covered by a commercial charge) would be subject to a charge. This approach allows the Councils to adhere to the general principles of the EIR, in that information expected to be published would be provided free of charge where publication has not already occurred, whilst information that would not routinely be published would incur a charge.
21. As a guide, the type of information that is likely to be supplied **without** a charge includes:



- Information from lists and registers
- Survey, emissions or investigation results collated as part of the Councils' statutory obligations

22. Information that is likely to result in a charge includes:

- Email trails
- Background documents (in some instances)
- Third party exchanges of information
- Data including survey, emission or investigation results held as part of non-statutory obligations and collected in relation to commercial activities by the Councils.

23. It should be noted that even where the Policy provides for the release of information without charge, [exceptions under the EIRs](#) may be applied where relevant. This means that some information may be withheld for reasons under the relevant exception(s) and is dependent on the information being requested.

Public registers and lists of information

24. The intention of the EIRs is to allow the public free access to environmental information. Therefore providing lists and registers is one method and publishing some of these under the Council's Publication Schemes ([South Hams District Council](#), [West Devon Borough Council](#)), as well as general content on our websites are ways that we do this. There is an obligation under Regulation 4 of the EIRs to proactively and progressively disseminate environmental information held by the Councils. This includes documents that the public are entitled to access under statutory legislation, such as:

- The Planning Register
- The Contaminated Land Register
- The Hazardous Waste Register
- The Water Quality and Pollution Control Register
- The Register of Radioactive Substances

25. However, the EIRs are not limited to statutory lists and registers and should include lists and registers compiled for a number of reasons. This also includes documents relating to decision making.

26. The exception to this rule applies where a list or register is not a statutory requirement and is only kept up to date based on the Councils carrying out a commercial, paid for activity. In this instance, where providing the information free of charge would result in the ceasing of collecting this non-statutory information, the EIRs allow for charging to occur.



What is a reasonable charge?

27. The Councils cannot include the cost of maintaining a database or register in their charges, but it can include locating, extracting and supplying information, as long as poor records management does not mean that the requester will be charged unfairly or excessively. The charge must not have a deterrent effect on the right to obtain information.
28. The context of a request can influence the reasonableness test. Therefore, information supplied as part of necessary commercial transactions (such as a property search) may differ from a request from a local residents group concerned about pollution on their estate.
29. The intention of the EIR is to increase public access to environmental information. Charges must be compatible with encouraging transparency and not be an obstacle. The general principle is that charges should not exceed the actual costs of producing the information.
30. Regulation 4 of the EIR require authorities to [implement measures to improve access to environmental information](#). Therefore, if the Councils have failed to make high-level environmental information available such as through general publication on its websites, it is unlikely that a charge can be made for staff time.
31. Where the Councils request a fee for environmental information, they must also offer advice and assistance to the requester so they can amend or narrow their request to avoid the fee. Where a narrowed or different request is received to the original request, rather than a receipt of the fee, this will be deemed as a new request and the 20 working day timeframe will start from the receipt of the narrowed or new request.
32. The Councils must demonstrate how the fee is calculated, so that the requester can understand the basis for the fee. The ICO expects the Councils to be able to justify the basis of this charge. This charge has been calculated at £25.00 per hour for the 2022/23 financial year if it is estimated that it will take the Councils more than 3 hours to locate, extract, and collate the information requested. The charge amount will be reviewed at the start of each financial year (April) and this Policy will be updated accordingly.

Manifestly unreasonable requests

33. Where it is estimated that complying with a request will exceed approximately 18 hours*, the Councils will consider whether the request should be deemed [Manifestly Unreasonable under Regulation 12\(4\)\(b\)](#) of the EIRs and will use existing procedures for doing so. This includes applying the Public Interest Test and providing advice and assistance to the requester in order to narrow down the scope of their request.

*18 hours is used as a timeframe under the Freedom of Information Act to determine whether a request exceeds [the appropriate limit under Section 12](#).



Aggregation of Requests

34. If the Councils receive two or more similar requests from the same requester, or from different requesters who appear to be acting in concert, or in pursuance of a campaign within 60 days, then those requests will be aggregated for the purposes of estimating costs.

Processing charges

35. The decision to issue a charge should be made within 5 working days of the receipt of the request. A fees notice letter (Appendix A) will be sent to the requester within 20 working days from the receipt of the information request, informing the requester that a fee is payable, how the fee was calculated and how to make the payment. If the requester is concerned about the costs, advice and assistance can be provided to them by providing an option of narrowing down their request.
36. Payment will be required in advance of disclosure. The fee charged will be based on an estimated cost calculated by the information holder, within the appropriate service of the Councils. The fee will be estimated from completion of the 'EIR Charging Template' (Appendix B). Requesters will have 60 calendar days for payment to reach the Councils and the fees notice will specify the date of this deadline. A reminder will be sent to the requester after 30 calendar days, where the fee has not already been paid. If payment is not made after a total of 60 calendar days, it will be assumed that the information is no longer required and the Council will not be obliged to proceed with the request.
37. Payment can be made by debit or credit card by telephoning [number required]
38. If the actual cost of complying with the request is less than the estimate, the balance will be returned to the requester, as long as it exceeds £5. Should the cost of complying with the request be greater than the estimate, the Council will meet this excess cost.

Charging threshold

39. The Councils will only charge for EIR requests where the time taken to comply with the request is estimated to exceed 3 hours. Staff should use the Councils' 'EIR Charging Template' (Appendix B) to estimate how long it will take to comply with a request. When complying with a request that will exceed the 3 hour threshold, the requester will be charged for the total number of hours it takes to complete the request.



Waiving of fees

40. The Councils 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.
41. The Councils 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 FOI/EIR legislation.
42. In these cases, the Councils reserve their right to consider waiving a fee on a case-by-case basis.

Schedule of charges

43. Public authorities must have a published schedule of charges on order to charge requesters for environmental information. The following rates apply for EIR requests from the Councils:
 - £25.00 for the hourly rate for calculating the value of staff time
 - This applies to requests that are estimated to exceed the 3 hour threshold
 - More detailed costs are set out in Appendix C – Schedule of charges

Policy management

44. The Information Governance Team is responsible for the implementing and management of the Policy, as well as ensuring relevant guidance and training is available.

Breaches and non-compliance

45. All staff dealing with EIR requests are expected to take this Policy into account when processing EIR requests. Any breaches or non-compliance should be reported to the Information Governance Team for consideration of any further investigation or action.

How the policy will be reviewed

46. The Councils will assess the impact of the charging policy by measuring the following:
 - The volume of EIR requests received once the charging policy is introduced
 - The number of EIR requests 'withdrawn' as a result of this policy



- The number of requests that are narrowed as a result of this Policy
 - Costs recouped by the Councils as a result of this policy
 - Staff time spent on EIR requests once the charging policy is introduced
47. This information will be collected by the relevant service areas within the Councils and reported to and collated by the Information Governance Team. The impact will be used to inform any review of the charging scheme.
48. The fees and charges set out in this policy will be reviewed on an annual basis.
49. The policy will be reviewed on an annual basis to check its effectiveness and will be updated if necessary. The policy will also be subject to on-going review in light of any changes in legislation or good practice.

What if I want to challenge any decision on charges?

50. If you are unhappy with any charge for an information request, you may request an internal review of this decision be undertaken. The process for requesting an internal review will be explained in your fees notice letter.

Further information

51. Information Commissioner's Office (ICO) www.ico.org.uk
52. Information Governance Team: foi@swdevon.gov.uk



Appendices

Appendix A – Fees notice letter

Dear Title Surname,

Your recent request under the Environmental Information Regulations 2004 (EIR)

Thank you for your request dated ...

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

However, where the type of information requested causes a burden on resources and staff time, we will consider whether it is appropriate to apply a charge on supplying some types of environmental information. This applies to your request. Therefore, in accordance with the Councils EIR Charging Policy, as the amount of work involved in processing your request will exceed 3 hours, a fee is payable before we can provide you with the requested information.

We have estimated that the cost will be This cost covers the cost of staff time spent on locating, retrieving and extracting the information. Also included are disbursement costs, for example, photocopying and postage, if the information is required in paper format. If the actual cost turns out to be less than our estimate, the balance will be returned to you if it exceeds £5.

Payment is required before we can continue with your request. The EIRs allow 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 processing your request.

If we do not hear from you within 60 working days from this letter, we will assume you no longer require the information and we will close the request. Should this occur, you will need to resubmit your request, should you still require the information.

Payment can be made by calling, quoting RP/..... and advise the member of staff you are talking to that you wish to make a payment relating to your EIR request.

Or:

We can provide the following information without charge, but any further time spent on your request would exceed the 3 hour limit: [Detail what information can be provided within the 3 hour threshold].



Please respond to this email to inform us on how you would like to proceed.

If you are dissatisfied with the handling of your request, you have the right to ask for an internal review. Internal review requests should be submitted within two months of the date of receipt of the response to your original letter and can be started here : <https://www.southhams.gov.uk/FOI>

Please remember to quote the reference number RP/..... in any future communications.

If you are not content with the outcome of the internal review, you have the right to apply directly to the Information Commissioner for a decision. The Information Commissioner can be contacted at:

Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

Yours sincerely,



Appendix B – EIR Charging Template

Fees/Charging Template

NB: Sampling checks relevant to the specific case should be undertaken to ensure the most accurate estimate has been produced. All tasks are charged at £25 per hour

Charging Element	Description	Hours	Cost
Email audit search time (specific time can be obtained from ICT)	Extraction time will be provided by ICT		
Reviewing and extracting relevant information from emails (conduct sampling exercise to establish accurate time required per email)	EG: Reviewing XX emails at 3 minutes per email		
Locating, reviewing and extracting information from other electronic document systems such as W360, network drives etc (conduct sampling exercise to establish accurate time required per document and email)	EG: Extracting and reviewing XX documents at 5 minutes each and XX emails at 3 minutes each		
Locating, reviewing and extracting information from manual files including basement storage (conduct sampling exercise)	EG: Extracting and reviewing XX documents at 5 minutes each		
Locating, reviewing and extracting information from any other sources or documents (please list and conduct sampling exercise)			
Consultation with 3 rd parties	Allow 15 minutes per 3 rd party, but adjust as necessary dependant on the specific case		
Consultation with other key and relevant officers (those who may hold information and feed into the request, as opposed to liaising with colleagues for advice and support for example)	EG: legal advice		



Any other actions allowable under the EIR regulations			
Total			£

Next Steps

If it is estimated that the request would take over the 3 hour threshold, how could the requester narrow down their request to bring it under the limit? Please give details below so that they can be suggested to the requester. For example:

- Advise of a specific time period
- Suggest key words for an email search
- Narrow the scope of the request

Suggested scope for narrowing request:



Appendix C – Schedule of charges

Item	Cost
Photocopies:	
A4 black and white	10p per page
A3 black and white	20p per page
A4 colour	£1.00 per page
A3 colour	£1.50 per page
Prints from a PC:	
Black and white	10p per page
Colour	50p per page
Photo quality paper print	£1.00 per page
Scanning:	
A4 paper records	£1.00 per image
A3 paper records	£2.00 per image
Electronic Media:	
CD ROM	£1.00
USB stick	£? Ask ICT for cost
Postage:	At face value
Staff time:	£25.00 per hour