


## Fee Charging Policy

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<b>Organisation</b>	Somerset County Council	
<b>Title</b>	<b>Fee Charging Policy</b>	
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<b>Owner</b>	Information Governance Manager	
<b>Protective Marking</b>	Unclassified	

### **POLICY ON A PAGE**

Somerset County Council will ensure all users and the public are aware of the Fees charged by the Council in provision of information as required by the Freedom of Information Act (2000), the Environmental Information Regulations (2004) and associated legislation.

This policy provides information on the charges that are within scope, the rules and guidance that must be followed, the standards to be maintained.

This document will be distributed to: **All Elected Members, Somerset County Council Staff, 3<sup>rd</sup> Party Contractors, Secondees and Volunteers and published to the Internet.**

#### **Key Messages**

- It is Somerset County Council policy to ensure that all fees and charges made for access to information are applied according to the law and advice from Central Government.
- Different regulations are applied to the Freedom of Information Act (2000), Environmental Information Regulations (2004) and the Data Protection Act (1998). Ensure you are clear as to which regulations apply.
- SCC will ensure these charges are transparent and available to the public.
- If a request for information appears to be extensive SCC will tell the applicant as quickly as possible of the likelihood of charges and advise them to clarify and / or reduce the extent of their request.
- There are specific charges for the provision of Education records
- There are specific charge tables for obtaining records from the Heritage service
- There are specific photocopying charges

**This “policy on a page” is a summary of the detailed policy document please ensure you read, understand and comply with the full policy**

## Revision History

Revision Date	Editor	Previous Version	Description of Revision
20.08.12	Jon Bazley		Initial Draft
01.09.12	Peter Grogan	v.01	Reformat
18.02.13	Peter Grogan	v.02	Minor adjustment FOI charges
13.03.13	Peter Grogan	v.03	HR amendments (Appx 1)

## Document Approvals

This document requires the following approvals:

Approval	Name	Date
Information Governance Manager	Peter Grogan	
Director of Business Development	Richard Williams	
Unions / JNF	Carrie-Anne Hiscock	
SCC HR	Richard Crouch	
Elected Members	David Huxtable	

## Document Distribution

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## **FULL POLICY DOCUMENT**

### **1 Policy Statement**

Charges may be applied to information requested and supplied by Somerset County Council under the following legislation:

- Freedom of Information Act (2000)
- Environmental Information Regulations (2004)
- Data Protection Act (1998)

### **2 Purpose**

This document states the Access Control policy for Somerset County Council.

This is based on the guidance from the Information Commissioner's Office (ICO) in March 2012, see below:

[ICO Fee Charging Guidance.](#)

The Council aims to make the maximum amount of information readily available at minimum inconvenience and cost to the public.

The Council will justify all charges made for routinely published material. We will also ensure that these charges are transparent and kept to a minimum.

Material which is published on [www.Somerset.gov.uk](http://www.Somerset.gov.uk) is available free of charge. Similarly, we publish, anonymously, the responses to requests for information made under the Freedom of Information Act (2000) on the following webpage:

[www.somerset.gov.uk/disclosurelog](http://www.somerset.gov.uk/disclosurelog)

### **3 Scope**

This policy covers charges that could be made under the

- Freedom of Information Act (2000)
- Environmental Information Regulations (2004)
- Data Protection Act (1998)

### **4 Definition**

This policy should be adhered to at all times and applies to all charges made for the supply of information.

### **5 Risks**

Somerset County Council recognises there are risks with charging for the supply of information as many charges are discretionary. Officers must ensure that charges are made equitably for all requests.

### 6 Applying the Policy

#### 6.1 The Legislation overview

The Council may charge applicants an administrative fee for releasing information obtained under all three pieces of legislation listed above.

The FOIA 2000 states that public bodies may apply charges to provide information to the public; this is found in the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004, SI 2004 / 3244 ('the Fees Regulations').

If the Council makes a reasonable estimate that it will spend more than £450 on staff time in complying with a request, then charges will be applied; this figure is based on an agreed national hourly rate of £25 over 18 hours. This charge is calculated in accordance with section 13 of the FOIA (2000) and the Freedom of Information Fees Regulations.

If it is estimated that more than 18 hours are needed to process the requested information, then this should be made clear to the applicant when the request is acknowledged.

The Council reserves the right to charge for printing, postage and putting the requested information into the applicant's preferred format.

If the Council receives two or more requests, from the same applicant for the same or similar information, within a consecutive 60 working day time period, it reserves the right to aggregate the costs of meeting these requests (under the same legislation described above) and will apply all relevant charges.

If the information needs to be translated into another language, the Council will not make a charge in line with its commitment to equal opportunities legislation.

The cost of confirming or denying that information is held and the cost of supplying the information will be calculated separately. Therefore, although the cost of supplying the information may exceed the appropriate 18 hours limit, the Council will still confirm or deny that the information is held if it falls under this limit.

If it is not immediately obvious that identifying and collating this information will exceed the 18 hour limit, the applicant should be informed at the earliest opportunity.

The applicant should also be informed that they have the right to reduce the scope of their request (this might involve reducing the timeframe of a request or the breadth of the information requested) so that it can be dealt with, at no charge, in under the 18 hour limit.

If the applicant decides to make the payment, this should be received within 60 working days of notification. This is explained in the fees notice letter template below (**see Appendix 2**), which can be amended where needed, and sent out to applicants. When the Council receives the fee, the work may begin on this request for information.

If a Service sends this Fees Notice letter out to an FOI applicant, the Information Governance team should be alerted, in case an internal review is later requested by the applicant.

If the applicant is unable to refine their request, or is not prepared to consider this option, the Council may decide to refuse to answer the request. In this case, the Council will formally write to the applicant advising them exactly why it is refusing to deal with the request, and again the applicant will be given details of the ICO, and their right to ask for an internal review. Alternatively, if the applicant decides to pay the charges, then the Council will answer the request in full, and also within the estimated timescale indicated.

The period from the day the fees notice is issued to the day the fee is received does not count towards the 20 working day limit for response.

### 6.2 Freedom of Information Act (FOIA) (2000)

The statutory appropriate limit is £450 for Local Government Offices processing these requests. When the Council receives a voluminous request for information, the Officer responsible for the request will estimate how long it will take to do any of the following activities:

- Deciding if we hold the information
- Locating the information or document that may contain the requested information
- Retrieving the information, or documents, that may contain the requested information
- Extracting the requested information from the source document

The Council will then charge that time at £25.00 per hour.

If the Council decides to make a charge the Officer dealing with the request will confirm the amount needed before we provide the information.

The 20 working day clock will stop once a charge is made, and then start again once we have received the payment.

The following activities are **not chargeable**:

- Checking that the request is valid
- Considering whether exemptions can be applied; this includes seeking legal advice
- Obtaining authorisation to send out the information
- Calculating any chargeable fees
- Providing advice and assistance to the applicant
- Providing access to material that is considered to be statutory access, for example, public registers
- Redacting the exempt information

### 6.3 Environmental Information Regulations (EIR) (2004)

The EIR does not enforce public bodies to make charges, but the Council can use its discretion to make a '**reasonable charge**' for providing environmental information. See guidance from the Information Commissioner's Office [www.ico.gov](http://www.ico.gov) below:

#### [Charging for Environmental Information](#)

In addition the EIR state that 'if the request is submitted in too general a manner' (and the public authority has complied with regulation 9) an exception may also be applied that prohibits disclosure. Regulation 9 concerns the Council's duty to provide advice and assistance to applicants.

Any charge will not exceed the cost of producing the information, unless the part of the Council that owns the information is entitled to make a 'market-based' or financially 'competitive' charge for the information, such as a trading fund. If the Officer dealing with the request decides to make a charge, s/he will confirm the amount needed before providing the information. The 20 working day clock will stop once a charge is made, and then start again once we have received the payment.

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If a fee is requested and no payment is received within 60 working days, then the request will be cancelled.

There is no chargeable time limit allowed for processing EIR requests (as there is with the FOIA) to deter those which are enormous to respond to, but we may refuse to respond to requests which are 'complex and voluminous' or give ourselves a 20 day extension, allowing the request to be answered in 40 days. In all cases, we will provide advice and assistance to the applicant as to how we can best deal with these requests.

### 6.4 Data Protection Act (DPA) (1998)

This Act allows the Council to charge £10 for processing each Data Subject Access Request (DSAR); this is when we provide applicants with copies of any information held on them by this Council, subject to any exemptions the Council may decide to apply.

Special rules apply to requests for access to educational records of current or ex-pupils of English and Welsh schools that are processed by, or on behalf of, the governing body or a teacher. A fee may only be charged if a permanent copy of the data is provided that is not in a paper form, ( e.g. disc) and the maximum fee is £50. When the information is supplied in a paper form the following sliding scale must be used:

Number of pages	Maximum fee £
1-19	1
20-29	2
30-39	3
40-49	4
50-59	5
60-69	6
70-79	7
80-89	8
90-99	9
100-149	10
150-199	15
200-249	20
250-299	25
300-349	30
350-399	35
400-449	40
450-499	45
500+	50

If a pupil or parent acting on the pupil's behalf makes a DSAR which does not include any information from the educational record, the maximum fee which can be charged is £10.

If a parent exercises their independent right under the Regulations simply to **view** the educational record, then this should be free of charge.

A similar maximum fee of £50 can be charged for manual accessible health records, but this should not affect the Council's obligations under the DPA.

## 6.5 Heritage Service Charges

The Council's Heritage Service's charges, where applicable, are found at the following link:

[Heritage Fees & Charges](#)

## 6.6 Charging for photocopies

The Council's following photocopying charges are the following:

Paper size	Number of pages	Cost per sheet	Cost per sheet inc. VAT
A4	1 to 2	Nil	Nil
A3	1	Nil	Nil
A4	3 or more	10p	12p
A3	2 or more	28p	33p
A2	1 or more	30p	35p
A1	1 or more	£2.43	£2.83
A0	1 or more	£2.90	£3.41

- Back to back copies are counted as 2 copies.
- VAT charged (currently at 20%) should be included on all photocopying costs.
- The Council may also charge for the costs incurred with postage and packaging.

## 6.7 Recording charges made

Receipts should be issued for all photocopying income received below £25.

The Council should raise an invoice for amounts over £25 using the format below:

Date	Paper size	Number of pages	Cost per page	Total charge	Date received	Receipt number	Invoice number

If the Officer dealing with the request decides to make a charge, the amount needed will be confirmed before providing the information. The Officer will make any charge within the 20 working day period allowed for our response. If a fee is requested and no payment is received within three months, then the Council will cancel the request; this time limit is found in the Government Code of Practice (2005) on the Environmental Information Regulations (2004); see:

[Government Fees Code of Practice](#)

Where the information requested is not included in the Publication Scheme, the calculation of any fees will follow The Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulation 2004; see Regulation 7(5) of the Fees Regulations.

## Appendix 1

### Governance Arrangements

#### Policy Compliance

If any employee is found to have breached this policy, they may be subject to Somerset County Council's [disciplinary procedure](#).

Where it is considered that a criminal offence has potentially been committed, the Council will consider the need to refer the matter to the police.

If you do not understand the implications of this policy or how it may apply to you, seek advice from the Information Governance Team.

#### Policy Governance

The following table identifies who within Somerset County Council is Accountable, Responsible, Informed or Consulted with regards to this policy. The following definitions apply:

- **Responsible** – the person(s) responsible for developing and implementing the policy.
- **Accountable** – the person who has ultimate accountability and authority for the policy.
- **Consulted** – the person(s) or groups to be consulted prior to final policy implementation.
- **Informed** – the person(s) or groups to be informed after policy implementation.

<b>Responsible</b>	Information Governance Manager
<b>Accountable</b>	SIRO – Director of Business Development
<b>Consulted</b>	Senior Management Team, HR, Unions
<b>Informed</b>	All, Members, employees, contractors, volunteers and 3 <sup>rd</sup> parties.

#### Review and Revision

This policy will be reviewed as it is deemed appropriate, but no less frequently than every 12 months. Policy review will be undertaken by the Information Governance Manager.

#### References

The following Somerset County Council policy documents are directly relevant to this policy.

- [Corporate Information Security Policy](#)
- [Data Protection Policy](#)
- [Information Transparency Policy](#)
- [Acceptable Use Policy](#)
- [Legal Responsibility Policy](#)



**Appendix 2 - Information Governance Team Appendix 1: Fees notice letter template**

Dear XXXXXX

Somerset Direct ref:  
Council service ref:  
Date of request:  
Due date of response:  
Actual date of response:

**Fees notice**

Thank you for your most recent request for information concerning XXXXX made under:

- Data Protection Act (1998)
- The Freedom of Information Act (2000)
- Environmental Information Regulations (2004)

**DELETE AS APPROPRIATE**

The XXXXX states that public bodies may apply charges in order to provide information to the public; this is found in the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004, SI 2004 / 3244 ('the Fees Regulations'). If a public body spends more than £450 on staff time in complying with a request, then charges may be applied; this figure is based on an hourly rate of £25 over 18 hours.

However, we are happy to respond to your request if you pay the fee as set out in this notice. The Council has estimated that it will take XXXXX hours to meet your request, which comes to £XXXXXX. This charge has been calculated in accordance with section 13 of the Freedom of Information Act 2000 and the Freedom of Information Fees Regulations.

We are unable to continue processing your request until the fee is paid. If you wish the Council to continue to process your request you should pay the fee within 60 working days (by XXXXX). If the department does not receive payment of the fee by this date, I will take it that you do not wish to pursue this request and will consider the request closed.

If you narrow the scope of your request, we may be able to provide the information free of charge because it would cost less than the appropriate limit to do so. For instance, you may wish to refine your request by being more specific about what information you particularly wish to obtain, including any dates or period of time relevant to the information required.

If you wish us to continue to process your request you should pay the fee by XXXXXXXX (**Allow 60 working days**). If we do not receive payment of the fee by this date, I will assume that you do not wish to continue with this request and I will consider the request closed.

If you are not satisfied 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 should be addressed to:

Information Governance Team  
A2W County Hall  
Taunton  
Somerset  
TA1 4DY  
Direct dial: 01823 - 357194

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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

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