

# Policy for Charging of Fees for the Provision of Information (Statutory Requests)

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<b>Policy holder:</b>	Head of Professional Services
<b>Approval board:</b>	Martin Colbourne, NES Managing Director
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<b>Legislation or regulation:</b>	Freedom of Information Act 2000 Data Protection Act 1998 Environmental Information Regulations 2004 The Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004

<sup>1</sup> The Review Period and the Target Review Date refer to our internal policy review process. The published policy is current and is the most recent approved version

<sup>2</sup> A relevant legislation change will come into force in May 2018 and this policy will need to be updated

## Version Control Document

<b>Date</b>	<b>Version No.</b>	<b>Reason for Change</b>	<b>Author</b>
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## 1. Policy Statement

The TEN Group is committed to meeting its obligations under the Freedom of Information Act 2000 and other legislation that provides individuals with rights to request certain information. Where it is lawful, appropriate and reasonable to do so, fees will be charged for the provision of information.

## 2. Policy Aims & Objectives

This policy is published to meet the requirement under S.19 of the Freedom of Information Act 2000 and Regulation 8 of the Environmental Information Regulations 2004 to publish the circumstances in which a fee is payable for the provision of information. The policy aims to provide clarity of the circumstances under which fees can be charged and how to calculate the amount.

Objectives:

- To draw together the fees options from various legislation, regulation, and guidance
- To identify circumstances where fees are likely to be charged
- To identify circumstances where consideration should be given to waiving a fee

The policy only applies to statutory requests for information and does not apply to other fees which may be charged by TEN Group organisations.

## 3. Definitions

### 3.1 Request for Information

The Freedom of Information Act (FOI), the Data Protection Act (DPA), and the Environmental Information Regulations (EIR) all contain a statutory right for an individual to make a request to be provided with a copy of information.

Outside of the statutory regime, a request can be received from any person to be provided with information, including personal information of a third party.

The maximum cost of complying with a request is determined by statutory fees regulations at a rate of £25 per hour, to a maximum of £450, and is based on staff time undertaking the following activities:

- Determining whether the information is held;
- Locating the information or document;
- Retrieving the information or document;
- Extracting the information from a document,

Plus the cost of disbursements.

### 3.2 Disbursements (see Appendix 1)

Actual costs incurred in informing the applicant whether information is held and communicating the information, including:

- Complying with the applicant's preference for the format/means of communicating the information;
- Photocopying and printing costs;
- Postage and other forms of transmitting/delivering the information.

### 3.3 Educational Record

Defined by the Education Pupil Information (England) Regulations 2005:

- Any information processed about the child by the school, including statement of special education needs and personal education plans, EXCEPT information purely for a teacher's use, e.g. lesson plans.

## 4. Scope

This Policy applies to all employees of TEN Group and includes any agency, or visiting professionals employed to provide services on their behalf.

## 5. Legal requirements

The Freedom of Information Act 2000 allows for the charging of fees:

- set down under any other enactment for the specific type of information requested;
  - for disbursements for all requests;
  - for staff time spent on certain activities in certain circumstances,
- and allows for the refusal of a request where the cost of compliance will exceed the appropriate limit.

The Data Protection Act 1998 allows for:

- the charging of a standard fee for subject access requests;
- the refusal of a request for unstructured personal data where the cost of compliance will exceed the appropriate limit.

The Environmental Information Regulations 2004:

- allow for the charging of fees for disbursements AND for staff time spent locating, retrieving and extracting information for ALL requests;
- allow for the charging of a fee to collate information but NOT to view the information in situ;
- require that fees must be 'reasonable' and 'must not exceed actual costs'.

## 6. Requirements

### 6.1 Requests for Personal Information under the DPA – Subject Access Requests

Where a request is made for access to personal information, a charge of £10 will normally apply, whether or not the information is held and/or provided. This includes the costs of all disbursements, including recorded delivery or courier costs if it is decided this is the most appropriate and secure means of delivery.

The TEN Group reserves the right to waive this fee for existing FT and PT staff, variable hours staff whose request is received at the time that they are engaged in work for the TEN Group, for applicants who are in receipt of benefit providing that proof of current benefit entitlement is provided when requested, and in any other appropriate circumstances.

A request for unstructured personal data (see S. 9A(1) of the DPA) may be refused if the cost of complying with the request exceeds the appropriate limit.

## 6.2 Requests for the Provision of Personal Data for Legal Proceedings considered under S.35 of the DPA

S.35 of the DPA allows for the disclosure of personal data to a third party when the disclosure is:

- (1) required by or under any enactment, by any rule of law or by order of the court;
- (2) necessary (a) for the purpose of legal proceedings or (b) for the purpose of obtaining legal advice, or for the purposes of establishing, exercising or defending legal rights.

The TEN Group will charge a fee for the provision of information under S.35 EXCEPT in the following circumstances:

- a) Where the request relates to disclosure required under enactment or rule of law\*;
- b) Where any organisation of the TEN Group is a party to the legal proceedings;
- c) Where the request relates to family court proceedings in connection with the welfare of a child, other than private family court proceedings.

\*A fee may be charged to provide information under a court order where an organisation of the TEN Group is NOT a party to the proceedings, or the request does NOT relate to the welfare of a child, except in private family court proceedings.

The provision of information under S.35 is discretionary and each request will be considered on a case by case basis.

A fee of £25 per hour may be charged for the following actions:

- Assessing the validity of the request including requesting any further information to validate the request;
- Locating and retrieving the information including requesting any further information to assist with identifying relevant information;
- Reviewing the information for relevance and necessity, including seeking consent from third parties and redacting irrelevant information and third party personal data.

In addition, disbursements will be charged at the rate set out at Appendix 1.

All requests will attract a minimum charge of 1 hour to verify, assess and validate the request, and to undertake initial searches for relevant information. Once relevant information has been located, the applicant will be provided with a written fees notice. No further work will be carried out until either the fee has been paid or written agreement is received to pay the notified fee.

If the applicant changes or adds to the request, a written notice of relevant additional fees may be issued before the further work commences.

## 6.3 FOI Requests

In the majority of cases there will be no charge for the provision of information in response to an FOI request.

A fee can be charged for disbursements where:

- A request is wide-ranging, e.g. covers several different types of information or a large time-span;
- the amount of information to be provided is significant;
- the applicant has requested the information be provided in a particular format, e.g. a typed transcript of a recording of a meeting; AND

- where any of the activities (excluding staff time) to identify, locate, retrieve and/or extract the information will incur significant additional cost.

The fee cannot exceed the appropriate limit.

Where an applicant has requested the information to be provided in a particular format because either they do not have equipment to access the information, i.e. where information is generally provided in an electronic format; or they have a protected characteristic, the information will be provided in the alternative format free of charge.

#### Handling requests where the cost of responding exceeds the appropriate limit

Where the cost of responding to a request exceeds the appropriate limit a request can be refused. Under S.16 of the FOI Act there is a duty to provide advice to the applicant on how they can submit their request in order to obtain the information they require.

Alternatively, the information can be provided if the applicant agrees to pay a fee. The fee:

- cannot exceed the appropriate limit of £450 (even if the costs are higher);
- is calculated using the cost of disbursements + the staff time in carrying out the relevant activities at £25 per hour;
- is notified to the applicant in writing.

The information will not be provided until either the fee has been paid or written agreement is received to pay the fee.

Where a cheaper option for providing the information is available, e.g. viewing the information, the applicant must be informed of this alternative at the time of issuing the refusal or fees notice.

## 6.4 EIR Requests

The EIR allows for charging a fee for the provision of information, including the costs of disbursements and staff time. The fee must be 'reasonable', must not exceed 'actual costs', and information of when a fee may be charged/waived and a schedule of charges must be published.

Fees cannot be charged when:

- the information is to be available on a public register or list;
- the information is only to be viewed by the applicant. (A fee can be charged for the collation of the information in readiness for viewing).

The TEN Group will not charge for the provision of information in response to an EIR request, except where:

- a request is wide-ranging, e.g. covers several different types of information or has a large time-span;
- the amount of information to be provided is significant;
- the applicant has requested the information be provided in a particular format, e.g. a typed transcript of a recording of a meeting; AND
- any of the activities (including staff time) to identify, locate, retrieve and/or extract the information will incur significant additional cost.

Where an applicant has requested the information to be provided in a particular format because either they do not have equipment to access the information, i.e. where information is generally provided in an electronic format; or they have a protected characteristic, the information will be provided in the alternative format free of charge.

Where a cheaper option for providing the information is available, e.g. viewing the information, the applicant must be informed of this alternative at the time of issuing the refusal or fees notice.

Where the information requested is collected by the TEN Group for the purpose of selling it commercially, a fee will be charged at the market rate.

Where a fee is to be charged, the applicant will be sent a fees notice and asked to confirm in writing to pay the fee. Payment may be required in advance, particularly when specific, significant costs will be incurred, e.g. where information is stored by a contractor who will need to undertake additional work to retrieve it.

Fees will be calculated as follows:

- for disbursements, see Appendix 1
- staff costs will be calculated using the same hourly rate as specified by the FOI fees regulations, currently £25 per hour.

## 6.5 Requests for Information that fall under Different Access Regimes

A request may be received for access to types of information that fall under different access regimes, e.g. a request for a policy document and for the requestor's record of complaint. The correct handling of the request is to separate the information according to which piece of legislation applies. This will also apply in the case of fees and each type of information will be assessed under the appropriate legislation to determine whether a fee is to be charged and how that fee is calculated. This information must be communicated clearly to the applicant in the form of a written fees notice.

## 7. Organisational Responsibilities

### NES Information Compliance Team

The NES Information Compliance team will support the TEN Group organisations in assessing the costs of complying with a request and provide advice on whether a fee can be charged and the amount of that fee, and whether certain types of request can be refused on the basis of costs.

### All Staff

Staff of the TEN Group organisations will ensure that the information they provide to be used in assessing the cost of complying with a request is reasonable, accurate and transparent.

## 8. References to related TEN Group policies

Data Protection  
Freedom of Information



## 9. Contact

Information Compliance and Policies Officer, NES Information Compliance Team

## 10. Equal Opportunities Statement

This policy and procedure has been assessed against the nine protected characteristics outlined in the Equality Act 2010. No additional issues or requirements have been identified.

If you have any comments or suggestions in relation to equal opportunities of this policy or procedure please contact the policy holder.

## Appendix 1 Schedule of Charges for the Provision of Information

<b>DISBURSEMENTS</b>	
<b>Photocopies and Printouts</b>	
A4 black and white	5p per printed side
A4 colour	25p per printed side
A3 black and white	10p per printed side
A3 colour	50p per printed side
Alternative media, e.g. computer disk,	Charge to be agreed in advance on request
<b>Images, Footage &amp; Recordings</b>	
Viewing on TEN Group premises	No charge
Printed stills	25p per printed still (A4)
Recorded to DVD/CD	25p per DVD/CD Minimum charge where an image needs to be obscured - £75. Additional charges to be agreed in advance.
Transcribed	No. of hours @ £25 per hour
<b>Postage</b>	At the prevailing Royal Mail rates dependent on the type of service requested by the applicant
<b>Courier</b>	At the most cost effective rate on the market dependent on the type of service requested by the applicant
<b>CALCULATING STAFF HOURLY RATE</b>	
<b>Staff Time</b>	£25 per hour
<b>SPECIFIC REQUEST TYPES</b>	
<b>Subject Access Request</b>	£10 maximum
<b>• FOI Request – Disbursements Only</b>	Disbursement costs to a maximum of £450
<b>• FOI Request – Requests exceeding appropriate limit</b>	Disbursement costs + staff time to a maximum of £450
<b>EIR Request</b>	Disbursement costs + staff time
<b>DPA S.35 Request</b>	Disbursement costs + staff time

**FEEES FOR EDUCATION RECORDS**

<b>Number of pages supplied</b>	<b>Max Fee</b>
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 plus	£50