



CABINET

4 APRIL 2005

FREEDOM OF INFORMATION ACT 2000

REPORT OF THE CORPORATE DIRECTOR OF RESOURCES, ACCESS AND DIVERSITY

1. PURPOSE OF REPORT

To inform Cabinet of the volume and type of requests the Authority has received to date under the Freedom of Information Act 2000 (the "Act") and the impact in cost and staff time in satisfying these requests. To recommend Cabinet's decision at its meeting of 24 January 2005 on charging be reviewed.

2 RECOMMENDATIONS

2.1 Cabinet is recommended to:

- 1 Note the volumes of requests for information received under the Act to date and the emerging issues; and
- 2 Decide whether the Authority should change its Charging Policy and, if so if it should either:
 - (i) refuse to answer requests that exceed the £450 threshold; or
 - (ii) answer requests over the limit, but charge for the time and disbursements entailed.

3 REPORT

3.1 Background

At your meeting of on 24 January 2005 you received a report on the Freedom of Information Act 2000, the "Act", and how it has been implemented. The report sought guidance on charging for access to information under the Act that you provided through minute item 162:

"4. that charges be made as follow:

- (i) disbursements be made for photocopying, postage etc be made for all requests for information (RFI) under the Freedom of Information Act (FOIA) where the law allows to be determined by the Town Clerk having regard to any national guidance;
- (ii) for an interim period of six months no further fees be charged other than disbursements in response to requests for information under FOIA;

- (iii) for this interim period all requests for information under FOIA be answered, even when estimated that the cost of answering exceeds the £450 limit."

3.2 Situation to Date

Details of requests for information received under the Act as of Friday 18th March, excluding those made under the Environmental Information Regulations, are:

Number of Applicants:	70
Number of Requests *:	125
Number of Requests in Excess of £450 limit:	5
Total staff hours spent on FOIA requests	854 (equivalent to nearly 23 working weeks)

* Some applicants have submitted more than one request for information.

Requests are being analysed, emerging issues identified and staff guidance notes produced to ensure issues are properly addressed.

Your attention is drawn to the significant increase in the Authority's workload, especially meeting requests that exceed the £450 threshold, which has taken up an enormous amount of Officer time. While most requests are answered in approximately two staff hours and are under the threshold that allows the Authority to either charge for answering or refuse to answer a request, the figures given above reflect Officer time spent dealing with requests received to date. Additionally, the Authority has received several multiple requests from individuals that contain linked requests - one letter contained 27 separate requests. Generally, it is this type of request or those that ask for large amounts of information from different sources that exceed the threshold.

The Act allows the Authority to aggregate the costs of any requests for the similar information received during any consecutive 60 working days period. The objective is to ensure that the £450 threshold is not undermined by the splitting of a large request into several small requests spread over a period of time.

Section 9 (1) of the Act allows the Authority to issue a fees notice telling the applicant how much money it requires to answer a request for information. This allows the Authority to ensure it does not perform work and then find the applicant refuses to pay for it. The twenty working days limit is suspended from the time the fees notice is issued until the applicant supplies the requested sum. In the case of a cheque, this includes a reasonable time for the cheque to clear - a four clear working days period is used. The applicant has three calendar months from the date the fees notice is issued to supply the money requested, otherwise the Authority can close the request. It has been assumed that all of this will happen.

3.3 Review of the Charging Decision

At your meeting in January you indicated that the decision not to charge for the staff time involved in meeting requests that exceed the £450 threshold. You further indicated that this decision be reviewed in the future. It is recommended that you review it at this meeting.

Section 12 of the Act says the Authority does not have to answer a request for information if it is estimated this will cost more than the appropriate limit. This limit is defined as £450 by Statutory Instrument 2004/3244. The £450 figure is reached by multiplying the statutorily defined hourly rate of £25 by the estimated number of staff hours it will take to:

- (a) determine whether the Authority holds the information,
- (b) locate the information, or a document which may contain the information,
- (c) retrieve the information, or a document which may contain the information, and
- (d) extract the information from a document containing it.

The Authority has three options when it receives a request for information that exceeds the limit:

- 1 Answer the request without charge, which is the decision made in January;
- 2 Charge for answering the request; or
- 3 Refuse to answer the request. In this case the Authority has to work with the applicant to see if the request can be adjusted to fall under the threshold.

Information from Leicestershire County Council and 30 metropolitan and unitary authorities shows that for requests over the threshold 26 either:

- charge and retain the refusal option where the authority believes a response entails disproportionate effort (26 authorities), although several of the authorities contacted (12) say the request will be refused unless the applicant can demonstrate an overriding general interest in the request being met;
- refuse to answer a request, if the applicant refuses to modify the request so it falls under the threshold - see 3 in preceding paragraph (3 authorities).

Of the 5 remaining authorities, 4 expect to move to the first option. The other authority charges at a rate of £25 a staff hour plus disbursements, but will answer the request regardless of its impact.

If the Authority processes a request estimated to be over the £450 limit some parts of the Act do not apply. These include:

- saying if the information is held and providing a copy of it;
- the 20 working day deadline for answering the request;
- providing the information in the requested format; and
- issuing a fees notice within the 20 working days limit.

4. FINANCIAL CONSIDERATIONS

- 4.1 The current, interim charging policy was agreed by Cabinet at its meeting on January 24th 2005. It was agreed that, until the volume of requests under the Act has settled down and a reliable estimate of the numbers of inquiries can be made, no charges would be made for requests – even if the costs exceed the £450 threshold.
- 4.2 There are some early indications that there could be more requests exceeding the £450 cost threshold than can be properly handled within existing resources, and Cabinet is asked to review its previous decision.
- 4.3 If Cabinet decides that a charge should be made, there is also an option to require payment in advance. If this option is also exercised the authority may allow a reasonable time for the requester's cheque to clear. The time that should be allowed for this is 4 working days.

Andy Morley
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5. LEGAL CONSIDERATIONS

- 5.1 All Legal implications have been addressed in this report.

Peter Nicholls
Service Director - Legal Services
Ext 6302

6. DETAILS OF CONSULTATION

Information Management Project Board
Service Director - Legal Services
Chief Accountant - Financial Services

7 OFFICER TO CONTACT

- 7.1 Ed Smith
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DECISION STATUS

Key Decision	No
Reason	N/A
Appeared in Forward Plan	No
Executive or Council Decision	Executive (Cabinet)

