

NEWHAM COUNCIL CHARGING POLICY

Introduction

Newham Council is an open and transparent public authority. As such, the Council is committed to proactively publishing information and to providing information on request in accordance with relevant legislation.

There are instances when the Council may refuse a request for information if that information is “exempt”, that is, it falls in to a category of information defined in legislation that may be withheld or refused. Also, the Council, in some cases, can make a charge for the information that is requested.

Newham Council’s Charging Policy for Information Requests covers the cases where charges are made for requested information under the following legislation:

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

This policy does not cover specific information which is accessible through Newham Council’s Publication Scheme. The Publication Scheme lists categories of information published by the Council, with details of how to obtain it. The Publication Scheme can be viewed on the Council’s website:

<http://www.newham.gov.uk/YourCouncil/FreedomOfInformation/InformationPublicationScheme.htm>

What Regulations does Newham Council follow when making charges for requests for information?

Section 12 of the Freedom of Information Act states that a public authority is not obliged to comply with a request for information if the authority estimates that the cost of complying with a request exceeds the “appropriate limit” set out in the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004 (SI 2004/3244). Section 9A of the Data Protection Act makes the same provision for requesting personal information which is not held electronically and which is not held in a structured filing system.

The Regulations set the appropriate limit for requests to local authorities as £450, at a standard rate of £25 per hour. This means that Newham Council will refuse a request for information if it estimates that the time taken to determine if the information is held, to locate and retrieve that information, and to extract the releasable information from any exempt information, will exceed 18 hours (£25 per hour for 18 hours being the £450 limit).

Where a request exceeds the £450 limit, we will write to inform the requestor of this, and offer advice as to how to revise and resubmit the request where possible, so that some information can be released without exceeding the £450 limit.

We will not charge if the request for supplying information can be processed within the £450 limit. The cost of sending the information can, however, be charged for.

Aggregated Requests

The Fees Regulations state that in some cases, the costs of answering more than one request for information can be “aggregated”, or added together, by the Council to estimate if the £450 limit is exceeded.

Requests can be aggregated when two or more requests have been made to Newham Council relating to the same or similar information within the space of 60 consecutive working days. The requests must also be either from the same person, or from different people who appear to be working together in a campaign.

Newham Council may also refuse repetitious

Is there a charge for personal data requested under the Data Protection Act 1998?

Individuals have a statutory right under the Data Protection Act 1998 to be told whether the Council holds personal information about them. This right is called “subject access”. Subject to certain exemptions an individual has a right to be told by the Council whether it or someone else on its behalf is processing their personal information, and if so to be given an intelligible description of the personal information, the purposes for which it is being processed and the likely recipients and sources of that personal information. They also have the right to receive a copy of the personal information.

The fee for Data Protection Act subject access requests is £10 per request. Disbursements may be added to this fee. However if the cost of meeting a request exceeds £450 for unstructured personal data, the Council may refuse to comply with the request. The requestor will be given the option to revise the request to bring it below the £450 or pay the costs of the acceding to the request at £25 per hour and disbursements exceeding £10. It is anticipated that most requests will fall below the £450 limit and will therefore not attract a fee (except for disbursements). Costs of printing, photocopying, postage and supplying the information in a particular format are also outlined below.

Freedom of Information

Fees for meeting an FOIA request may be charged only in accordance with the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004 (“the Fees Regulations”).

Upon receiving a request, if the estimated cost of complying with the request is below £450, the Council will not charge a fee (except for disbursements such as photocopying or postage costs over £10).

The £450 limit is calculated using an hourly rate of £25 per hour for staff time, regardless of the seniority of the staff involved in dealing with the request. The time spent on the request can only include the time spent:

- determining whether the Council holds the information
- locating the information
- retrieving the information
- extracting the information

If the estimated cost of meeting the request exceeds £450, the Council may charge a fee in accordance with the above. Alternatively, the Council may refuse to comply with the request. The requestor will be given the option to revise the request to bring it below the £450 or pay the costs of the acceding to the request at £25 per hour and disbursements exceeding £10. It is anticipated that most requests will fall below the £450 limit and will therefore not attract a fee (except for disbursements). Costs of printing, photocopying, postage and supplying the information in a particular format are also outlined below.

Where two or more requests are made by one person, or by different persons who appear to the Council to be acting in concert or in pursuance of a campaign (for the same or similar information within 60 working days), the cost of complying with all of the requests will be taken as being the cost of complying with each of them. In practical terms, this means that the Council may refuse to supply the information for any one request if the cost of meeting all the requests exceeds £450.

Schedule of charges for requests made under the Data Protection and Freedom of Information Act

Charges relate to DPA and Fol requests unless otherwise stated

| Description | Fee |
|--|--|
| Subject access requests (DPA) | £10 |
| Requests costing less than £450 to process | Charged at cost of printing, photocopying and postage over £10 (disbursements) |
| Requests costing more than £450 to process | Charged at £25 per hour for staff time plus disbursements |
| Paper copies | A4 10p per side A3 20p per side Paper plans (up to A0) - £5 per side |
| Postage | At face value (above £10) |
| CDR s (700Mb) | £2 per CD |

Please note:

- *These fees are designed to recoup any expenditure rather than include any profit element. As such, therefore, they will be uniformly applied throughout the Council.*
- *These fees do not apply to the provision of information under the terms of the Council's Publication Scheme (where other charges are specified) or where the provision of information is taking place in accordance with any legislation other than the Environmental Information Regulations, the Freedom of Information Act or the Data Protection Act.*

How to make payment of any charges?

A cheque for the correct amount of money charged and made payable to "Newham Council" should be sent to:

Democratic Services
3rd Floor East
Newham Dockside
1000 Dockside Road
London E16 2QU

How do charges affect the time limit for supplying information?

If a charge applies, the fees must be paid in advance. The time limit within which a request must be answered by Newham Council will take this into account, so effectively the number of days taken to answer the request does not include the time from which a charge is made and the time when the charge is paid in full. If a charge is not paid three months after notification of a charge is sent to the requester, Newham Council will consider the request to be closed and take no further action on it.

Is there a charge for supplying information in formats such as Braille, large print or spoken word?

Under the Disability Discrimination Act 1995, Newham Council will not apply charges when providing information in formats such as Braille, large print or spoken word. Newham Council reserves the right to communicate the information in the most cost-effective way whilst still meeting the needs of the person making the request.

What if the requestor cannot afford to pay the charges?

Where possible, if the cost of providing information in a particular way causes genuine financial difficulties for the requester, an alternative will be offered by Newham Council. For example, provision may be made to view information in original paper format at an office instead of supplying large amounts of photocopies.

Where there is a genuine need for information and genuine financial hardship, the Head of Complaints and Member Enquiries will consider waiving any charges.

Is there a charge for environmental information?

The Environmental Information Regulations permit a public authority to make a "reasonable fee" for providing environmental information (unless access is being provided to a public register or if the information is examined at the offices of the public authority).

No exception is made for requests that will involve costs in excess of the 'appropriate limit' within the meaning of the Fees Regulations. Except in specified circumstances when other organizations are involved, all requests made to Newham Council for environmental information will be dealt with by the Council and any charges imposed will be reasonable.

The charges for environmental information will not exceed the cost of producing the information and in relation to the actual charges.

Please refer to the Scheme of Charges below for regarding environmental information:

Schedule of charges for requests made under the Environmental Information Regulations

| | Charge/Fee Including VAT. £ |
|---|---|
| Authorisation Fees for processes under Part 1 Environmental Protection Act 1990. | As set by ministerial circular. |
| Charge for a written report upon contaminated land for a specific site produced through the Graphical Information System | £139.00 |
| Charge for a written report upon contaminated land for an area of up to 250m centred upon a specific site produced through the Graphical Information System | £174.00 |
| Charge for a written report upon contaminated land an area greater than 250m centred upon a specific site | Price on application |
| Charge for a standard report of air quality data for Newham (written or CD or DVD) | £35.00 |
| Charge for a non standard report of air quality data for Newham (written or CD or DVD) | £43 per hour |
| Charge for the production of additional environmental information from files, reports or records. | £43 per hour |
| Charge for copies of files supplied on one CD or DVD | £35.00 |
| Charge for supplying copies of file papers. | £0.20 per photocopy |
| Applications for registration for a period of 3 years under the Motor Salvage Operators Regulations 2002. | £70.00 |
| For a certified copy of a single register entry | £10 per copy up to a maximum of 5 copies. |
| Non-certifiable copy of a single entry or single copies of more than one registration document | £0.20 per copy |

Where no charges are made.

No charge will be made for responding to an inquiry about enforcement notices, declarations within the contaminated land register, financial charges, smoke control orders and so on. Neither will a charge be made for a written response to a simple inquiry about a site where no specific information about the site exists and a written contaminated land report is not required.

Members of the public or representatives from organisations may examine statutory public registers held by the service free of charge.

Payments.

For chargeable inquiries payment by cheque is required in advance made payable to "London Borough of Newham", marked for the attention of the officer dealing with the enquiry. Alternatively, if a company confirms in writing that it will pay the appropriate costs, the officer dealing can process the inquiry and request that an invoice is raised.

Viewing files.

An applicant must make an appointment in order to view the files held by the Unit. Premises or subject files will be inspected beforehand by the case officer or Principal EHO who will remove all confidential papers i.e. letters from complainants. The files must be examined in the presence of an officer.

What if the requestor wishes to challenge any decision on charges?

If an individual is unhappy with any charge for an information request or any decision made by Newham Council for refusing a request for information on the grounds that it would exceed the £450 limit, in the first instance, write explaining the nature of your complaint to:

Head of Complaints and Member Enquiries
3rd Floor East
Newham Dockside
1000 Dockside Road
London E16 2QU

If the individual remains dissatisfied they may contact the Information Commissioner at:

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

Telephone: 01625 545 700
www.informationcommissioner.gov.uk