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Management Policy – Local Government Official Information Act 1987: Charging for Services

The Local Government Official Information and Meetings Act 1987 (LGOIMA) requires Council to make available certain information that it holds when requested. LGOIMA also makes provision for Council to charge for the information supplied.¹ This charge must be reasonable and is for the cost of labour and materials involved in making the information available.

Te Puutake **Purpose**

1. The purpose of this Policy is to provide guidance on when to consider charging for information requests and how to establish reasonable charges for the purposes of LGOIMA.
2. This Policy is based on the:
 - a. Government guidelines for charging for official information for Government Departments, Crown Entities, State-Owned Enterprises and all other organisations which are subject to the Official Information Act 1982 (OIA); and
 - b. Ombudsman's guide to charging for official information under the OIA and LGOIMA.

Ngaa Tikanga Whakahaere **Principles of the Policy**

3. LGOIMA is an important part of New Zealand's constitution and responding to Official Information requests is a core Council function. Making information accessible to the public is important to promote accountability and transparency in Local Government.
4. Charging under LGOIMA is not generally about full cost-recovery. Full cost-recovery would be inconsistent with the purpose of the legislation, which includes progressively increasing the availability of official information to the public.
5. As part of our responsibility to make information available, Council will inevitably carry costs relating to administration, budgeting and infrastructure. These costs are not intended to be passed on to requestors.

Te Whaanuitanga **Scope**

6. This Policy applies to all Official Information held by Council that falls within the scope of a LGOIMA request.

7. LGOIMA also applies to council-controlled organisations (CCO) under Section 74 of the Local Government Act 2002. Charging for information supplied by a CCO will be established in conjunction with the relevant officers of the CCO affected.
8. If an identifiable natural person seeks access to personal information about themselves, then the request is governed by the Privacy Act 2020. This Policy does not apply to these requests.

Ngaa Tikanga Policy

TIME AND MATERIALS COUNCIL MAY CHARGE FOR

9. Charges are intended to represent a reasonable fee for access. It may include the following:

Labour	<ul style="list-style-type: none"> • Search and retrieval • Collation (bringing together the information at issue) • Research (reading and reviewing to identify the information at issue) • Editing (the physical task of excising or redacting withheld information) • Scanning or copying • Reasonably required peer review in order to ensure that the above tasks have been carried out correctly • Formatting information in a way sought by the requester • Supervising access (where the information at issue is made available for inspection) • Reproducing film, video or audio recordings
Materials	<ul style="list-style-type: none"> • Paper (for photocopying) subject to point 13 below. • Electronic storage devices that information is provided on
Other actual and direct costs	<ul style="list-style-type: none"> • Retrieval of information from off-site • Please also see point 14 below.

TIME AND MATERIALS COUNCIL WILL NOT CHARGE FOR

10. The charge will not include any allowance for:

Decision making	<ul style="list-style-type: none"> • Work required to decide whether to grant the request in whole or part, including: <ul style="list-style-type: none"> • reading and reviewing to decide on withholding or release; • seeking legal advice to decide on withholding or release; • consultation to decide on withholding or release; and • peer review of the decision to withhold or release. • Work required to decide whether to charge and if so, how much, including estimating the charge.
Administrative inefficiencies or poor record-keeping	<ul style="list-style-type: none"> • Searching for / retrieving information that is not where it should be because of administrative inefficiencies or poor record-keeping
Administrative costs associated with the way an agency chooses to process a request	<ul style="list-style-type: none"> • Drafting a cover letter/email • Formatting information in a way preferred by Council but not sought by the requester
Costs not directly related to supplying the information	<ul style="list-style-type: none"> • General overheads, including costs of establishing and maintaining systems and storage facilities

FEES

11. Subject to any remission applied by Council, if the total time involved in responding to a request is in excess of one hour Council will charge as follows, after that first hour:

- a. an initial charge of \$38 (inclusive of GST) for the first chargeable half hour or part thereof; and
 - b. then \$38 (inclusive of GST) for each additional half hour or part thereof.
12. The rate of charge applies irrespective of the seniority or grading of the staff member who deals with the request, except where staff or contractors with specialist expertise who are not on salary are required to process the request, in which case a higher rate not above their actual rate of pay may be charged.
13. Photocopying or printing on standard A4 or A3 paper where the total number of pages is in excess of 20 double sided pages will be charged out as per Council's fees and charges current at the time the request is made.
14. All other charges incurred will be charged at an amount which recovers up to the actual costs involved.
15. Where repeated requests are made by the same person or group in respect of a common subject over intervals of up to eight weeks, Council will aggregate these requests for charging purposes. This means that the second and subsequent requests will not be subject to One hour of free time and 20 free A3 (or smaller) photocopies.
16. A record will be kept of all costs incurred. Wherever a liability to pay is incurred the requestor will be notified of the method of calculating the charge and this fact noted on the record.

REMISSION OF CHARGES

17. Charges may be modified or waived at the discretion of the Legal Services team in consultation with the relevant Unit and Group Manager.
18. Such decisions should have regard to the circumstances of each request, including whether:
 - a. payment might cause the requestor hardship;
 - b. remission or reduction of the charge would facilitate good relations with the public or assist Council in its work; and
 - c. remission or reduction of the charge would be in the public interest because it is likely to contribute significantly to public understanding of, or effective participation in, the operations or activities of Council, and the disclosure of the information is not primarily in the commercial interest of the requester.
19. Where the free threshold is only exceeded by a small margin it is a matter of discretion whether any fee should be paid and if so, how much.
20. It is reasonable to recover actual costs involved in producing and supplying information of commercial value. Charges in relation to the supply of commercially valuable information are unlikely to be modified or waived.

21. Members of the news media play an important democratic role in informing members of the public of the activities of Council. This policy is not intended to restrict access to media to information, but the principle of protection for ratepayers from the costs of excessive requests for information will apply regardless of the source of the request. This policy envisages that requests made by journalists on behalf of their media organisation will be able to be completed without attracting cost recovery charges. Requests which, by their nature, are likely to attract a charge will be discussed directly with the journalist involved. If, following that discussion, the original request for information still stands, a reasonable charge may be imposed, in accordance with this Policy, and with due regard to any circumstances warranting remission.
22. Each request will be considered on a case-by-case basis considering all relevant information and following the Ombudsman's guidance.

DEPOSITS

23. A deposit may be required where the charge is likely to exceed \$150 or where some assurance of payment is required to avoid waste of resources. A deposit may only be requested after a decision has been made to make the information available.
24. The requestor will be notified of the amount of deposit required, the method of calculating the charge and the likely final amount to be paid.
25. Work and timeframes on the request may be suspended pending receipt of the deposit.²
26. The unused portion of any deposit will be refunded to the requestor by the 20th of the month following receipt of details needed to process a refund.

COST REDUCTION

27. Council will work with requestors to establish whether there are options that may reduce the amount of staff time and resources incurred in dealing with requests, these will be considered when a request is first received, and include:
- a. narrowing the scope of the request;
 - b. transfer the request where the request relates more closely to the functions of another organisation;
 - c. refusal of requests which require substantial collation or research; and
 - d. provision of information in a manner other than that requested where compliance with the requester's preferred method of disclosure would incur more cost.

REVIEW OF DECISIONS ON CHARGES

28. LGOIMA provides that the Ombudsman may investigate and review any decision on the charge to be paid in respect of a request for access to official information. When informing requestors of charges to be paid, Council will advise of this right of appeal to the Ombudsman on a decision to charge for information.

² Local Government Official Information and Meetings Act 1987 s13(4)

Term	Meaning in this policy
CCO	Council Controlled Organisation (as defined under the Local Government Act 2002)
Council	Hamilton City Council
Hardship	Hardship means the charge will be excessively costly for the requester to bear, such that the requester will be unable to meet the charge and still afford the essentials for life or business.
Media organisation	For the purposes of this provision, a media organisation is defined as a publication or platform which has been accepted as a member of the New Zealand Media Council and which agrees to adhere to the principles of that organisation.
LGOIMA	Local Government Official Information and Meetings Act 1987
Official Information	Means any information held by a local authority; but does not include— <ul style="list-style-type: none"> • information contained in library or museum material made or acquired and preserved solely for reference or exhibition purposes; or • information which is held by a local authority solely as an agent or for the sole purpose of safe custody and which is so held on behalf of a person other than a local authority; or • information contained in any correspondence or communication that has taken place between the office of the Ombudsmen and any local authority and that relates to an investigation conducted by an Ombudsman under this Act or under the Ombudsmen Act 1975, other than information that came into existence before the commencement of that investigation; and • does not include information contained in any correspondence or communication that has taken place between the office of the Privacy Commissioner and any local authority and that relates to any investigation conducted by the Privacy Commissioner under the Privacy Act 2020, other than information that came into existence before the commencement of that investigation
OIA	Official Information Act 1982

Ngaa Hononga

References

- [Local Government Official Information and Meetings Act 1987](#)
- [Charging: A guide to charging for official information under the OIA and LGOIMA](#)
- [Ministry of Justice – charging guidelines for OIA requests](#)