

## Charging Policy for requests falling under the Data Protection Act, the Freedom of Information Act, the College's Publication Scheme, and the Environmental Information Regulations

### 1. Preamble

This Policy has been set taking into account the Data Protection (Subject Access) (Fees and Miscellaneous Provisions) Regulations 2000 and the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004 and relevant guidance provided by the Information Commissioner's Office (ICO [and the Ministry of Justice.

Technical guidance included below at Sections 3-5 and Appendix B of this policy consists of extracts from guidance provided in the following ICO documents, summarised or adapted where appropriate:

- *Freedom of Information Act. Using the Fees Regulations* (Version 2. 26 June 2009)
- *Freedom of Information Act. Environmental Information Regulations. Practical guidance: Charging for information in a publication scheme* (Version 1. 28 August 2008).

Further guidance is available on the website of the Information Commissioner's Office at [www.ico.gov.uk](http://www.ico.gov.uk).

### 2. Data Protection Act 1998

Where the information requested is personal information and the applicant is the subject of the information, access to the information is dealt with under the Data Protection Act 1998.

Staff, students and other users of the College have the right to access any personal data that is being kept about them either on computer or in certain files. The College will charge the maximum subject access fee of £10 per request, as prescribed in the Data Protection (Subject Access) (Fees and Miscellaneous Provisions) Regulations 2000. The College may, however, waive this charge at its discretion

### 3. Freedom of Information Act 2000

The Freedom of Information Act 2000 (FOIA) gives rights of public access to information held by public authorities. Section 9 of the FOIA allows a public authority to charge a fee for providing information in response to a request. Such a fee must be determined in accordance with the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004 (the Fees Regulations).

#### 3.1 The "appropriate limit"

Section 12 of the FOIA allows public authorities to refuse to answer requests for information if the cost of complying would exceed the 'appropriate limit' stated in the Fees Regulations. The appropriate limit applicable in the case of the College is £450.

In estimating whether the cost of complying with the request would exceed the appropriate limit, Regulation 4 (3) of the Fee Regulations states that the College can only take into account the costs it reasonably expects to incur in:

- determining whether it holds the information;
- locating the information, or a document containing it;
- retrieving the information, or a document containing it; and
- extracting the information from a document containing it.

The College may take into account the costs attributable to the time that staff or external contractors would be expected to spend on the above activities on behalf of the College. In order to achieve consistency, all public authorities use the same hourly rate when estimating

staff-time costs, regardless of the actual costs. The hourly rate is set at £25 per person per hour by Regulation 4(4) of the Fees Regulations, which means that the appropriate limit will be exceeded if these activities exceed 18 hours.

### **3.2 What happens if the “appropriate limit” is exceeded?**

The College has no obligation to comply with a request where it estimates that the appropriate limit will be exceeded. Where the College refuses a request, it will, however, provide the applicant with advice as to how the request could be refined or limited to come within the cost limit. If the College chooses to comply with the request, the charges at Appendix B to the policy will apply.

### **3.3 What happens if the “appropriate limit” is not exceeded?**

Where the cost of compliance does not exceed the appropriate limit, the request must be complied with and the information disclosed, unless it falls within an exemption specified in the FOIA.

Regulation 6 of the Fees Regulations sets out the activities that can be charged for in complying with a request. It should be noted that these differ from the activities used in calculating the estimate of whether the appropriate limit has been reached (see 3.1 above).

The costs the College is permitted to charge under Regulation 6 of the Fees Regulations when complying with a request are referred to as ‘communication costs’ and are limited to expenses actually incurred. This means that the College can recover the reasonable costs incurred in:

- contacting the applicant to inform them the information is held, and
- communicating the information to the applicant e.g.
  - reproducing any document containing the information ;
  - postage and other forms of transmitting the information; and
  - complying, where this is reasonably practicable, where the applicant has expressed a preference for a particular means of communication.

The College may not, however, charge for the cost of staff time taken to carry out these activities

See Appendix A for details of applicable charges under the College’s Charging Policy.

### **3.4 Aggregation of costs**

The Fees Regulations state that two or more requests for information can be aggregated by the College for the purposes of calculating costs if they are:

- by one person, or by different persons who appear to the College to be acting in concert or in pursuance of a campaign;
- for the same or similar information; and
- the subsequent request is received by the College within 60 working days of the previous request.

The intention of this provision is to prevent individuals or organisations evading the “appropriate limit” by dividing a request into smaller parts.

## **4. College Publication Scheme**

The College’s Publication Scheme conforms to the ICO’s model scheme and provides a list of the information routinely published by the College. The ICO’s model publication scheme allows for fees to be charged where they can be justified, where they are published, and where the basis for the charge is made clear.

Information requested under the College's Publication Scheme will normally be provided free of charge but the charges set out in Appendix A to this Policy may apply where the material requested has to be printed or copied specifically for the applicant or where information is requested in an alternative format. Where a charge is made, however, it will not exceed the total costs of printing, copying, and postage.

**5. Environmental Information Regulations 2004**

Section 39 of the Freedom of Information Act 2000 exempts environmental information from being dealt with under the Freedom of Information Act. Such requests should instead be dealt with under the Environmental Information Regulations 2004.

See Appendix A for details of applicable charges under the College's Charging Policy. It should be noted that the College cannot charge an applicant to inspect information 'on site' or for providing access to any registers or lists of environmental information.

**6. Reviewing the Policy**

This policy will be reviewed annually by the Corporation's Finance and General Purposes Committee.

## Appendix A

The following charges are applicable where information is requested under:

- The Freedom of Information Act 2000 and the total cost of complying with the request is under the “appropriate limit” (currently £450)
- The Environmental Information Regulations (EIR) 2004

Information requested under the College’s Publication Scheme will normally be free of charge but the following charges may apply where the material requested has to be printed or copied specifically for the applicant or where it is requested in an alternative format.

<b>Electronic copies:</b>	
Where a document can be accessed via a website or is in an electronic format and can be sent as an e-mail attachment	No charge
<b>Photocopies or computer printout:</b>	
A4 Black and White A3 Black and White A4 Colour A3 Colour	5p per printed side 5p per printed side 10p per printed side 10p per printed side
<b>Other formats:</b>	Where the cost of providing the information in another format is reasonably practicable, the cost of transferring the information to the requested format
<b>Postage:</b>	At relevant Royal Mail rates
<b>Viewing information on site:</b>	No charge
<b>Access to registers or lists of environmental information:</b>	No charge where the request is made under the Environmental Information Regulations 2004.

Where the College determines that a charge applies, the College will inform the applicant of the charge and that payment must be made in full before the information can be sent to them.

The College may waive the charges shown in the above table at its discretion. The College will normally consider waiving the charges shown in the above table in the following cases:

- where the total cost of responding to a single request is less than £10.00,
- in responding to a single request from a disabled applicant who has requested information in an alternative format solely for a reason connected with their disability.

## **Appendix B**

The maximum fee that the College can charge for a request under the Freedom of Information Act where the appropriate limit of £450 is exceeded is described in the Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004, and is the sum of:

- the costs which the College may take into account in calculating that the appropriate limit has been exceeded (see 3.1 above);
- the communication costs (see 3.3 above); and
- staff time, at £25 per hour per person, spent on the activities included under communication costs.

The cost of copying or printing documents, postage and supplying the information in other formats will be as detailed at Appendix A above.

## Appendix C

### Related College documents

Data Protection Policy

Publication Scheme

### Relevant Legislation

The Data Protection Act 1998

The Freedom of Information Act 2000

The Data Protection (Subject Access) (Fees and Miscellaneous Provisions) Regulations 2000

The Freedom of Information and Data Protection (Appropriate Limit and Fees) Regulations 2004

The Environmental Information Regulations 2004

### Relevant Guidance

Relevant guidance can be found on the website of the Information Commissioner's Office at [www.ico.gov.uk](http://www.ico.gov.uk)

Technical guidance included at sections 3-5 and Appendix B of this policy consists of extracts from guidance provided in the following ICO documents:

- *Freedom of Information Act. Using the Fees Regulations* (Version 2. 26 June 2009),
- *Freedom of Information Act. Environmental Information Regulations. Practical guidance: Charging for information in a publication scheme* (Version 1. 28 August 2008).

Readers are referred to the full guidance available in these documents.

**Appendix D**

**Charging Policy Flowchart**

