

Charging for Official Information Act 1982 (OIA) requests

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Policy statement and principles

What

Police receives more than 80,000 Official Information Act 1982 (OIA) requests each year - more by far than any other government organisation.

The OIA includes a provision under Section 15 for agencies to charge requesters for information supplied under an OIA request. It is not intended to be a full cost-recovery mechanism but permit partial recovery of some costs.

This policy outlines the criteria Police will use to consider how and when it will charge for supplying information under an OIA request. Operational guidelines for implementing a charge are attached at Appendix One and should be read in conjunction with this policy.

This policy is based on the Ombudsman's [Charging Guide](#) and the Ministry of Justice's [Charging Guidelines for Official Information Act 1982 Requests](#) which provide fuller guidance.

Why

Currently Police relies on the Ministry of Justice's charging guidelines. Having a charging policy clarifies exactly when and why Police consider it appropriate to charge for requests.

A charging policy will assist in understanding what the public want from Police in a timely way and deliver to our legal obligations (and only charge for information when necessary).

The policy will remove any ambiguity on Police's position on charging for OIA requests, enable our people to make good decisions and ensure greater consistency of practice.

How

This policy applies to any part of an OIA request that is made, or transferred, to Police that does not involve the requester's personal information. Personal information requests are subject to the Privacy Act 2020, and, under section 66 of that Act, public sector agencies are not permitted to charge for personal information requests.

This policy is to be applied by staff (permanent, fixed-term and casual Police employees; also to contractors, consultants or temporary agency staff) responding to OIA requests.

Police will not generally charge for complying with simple requests. A decision to charge is one which will be by exception and will be considered on a case-by-case basis.

The decision to charge must be approved in accordance with the approval process. Police must consider whether charging will enable a request that is considerable to be granted before refusing it in its entirety on the basis of substantial collation and research. A charge can only be imposed when there is information to release.

Police may decide to charge for one, or both, of the following reasons:

- **The request is likely to consume a considerable amount of labour and/or resources.** In most cases, a charge will not be considered unless the amount of chargeable time exceeds five hours, however the definition of considerable will vary depending on Police's resourcing and workload at the time. In general, the Ombudsman advises that a charge may be reasonable if the time and/or effort required to meet a request is likely to have a significant impact on Police's day-to-day operations. Police will also consider the decision to charge alongside its discretion to extend the timeframe for responding to a request under section 15A of the OIA. Police will also give the requester the opportunity to refine the request before considering the decision to charge.
- **The requester has recently made a large volume of time-consuming requests.** The Ministry of Justice guidelines allows Police to consider charges for repeated requests from the same requester in respect of a common subject over intervals of up to eight weeks, and whether requests after the first should be aggregated for charging purposes.

Approval process

A decision to charge can only be approved by the Director: Ministerial Services, on the recommendation of the District Commander (for districts) or the appropriate work group Director (for Police National Headquarters). The Director: Ministerial Services will consult with the Deputy Chief Executive: Insights and Deployment, or the Executive Director: Media and Communications, on the decision.

Accountabilities

This policy will be publicly available on Police's website.

Police will advise the requester of a decision to charge and will provide an estimate of the likely cost. The requester will be asked to confirm if they wish to proceed with their request. Police will make all reasonable efforts to engage with the requester to help them clarify the request and change or refine it in a way that reduces or removes the need to charge.

Any decision by Police to charge can be reviewed by the Ombudsman. Police must advise the requester that they have the right to ask the Ombudsman to seek a review of Police's decision to charge.

Appendix One: Operational guidelines for charging for an OIA request

Introduction

These guidelines outline the process Police will use when considering charging for an OIA request, how much a charge should be, and whether there are factors that would warrant a remission in part or all of a charge. It should be read in conjunction with this entire chapter, Charging for Official Information Act 1982 requests.

What is chargeable and what isn't?

Police can charge for the following activities:

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 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) - Discs or other 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 storage facilities

Police cannot charge for the following activities:

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 - 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 - Drafting a briefing for the Minister - Formatting information in a way preferred by the agency 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

Remission of charges

Police has the discretion to remit a charge either in whole or in part. In making this decision to reduce or cancel a charge that would otherwise be set, Police will consider the following factors:

- whether remission would facilitate good relations with the public or assist the department or organisation in its work

- whether remission would be in the public interest
- whether payment might cause the applicant hardship.

Calculating the charge

The Ombudsman [Charging Guide](#) and the Ministry of Justice [Charging Guidelines for Official Information Act 1982 Requests](#) provide a basis for assessing a reasonable charge for Official Information Act requests, and give an indication of factors which may be relevant when assessing whether it is reasonable to charge for the supply of information. The Ombudsman Charging Guide is comprehensive and includes examples, scenarios, and case studies. It should be referred to if required.

Charges may be applied as follows (inclusive of GST):

<p>Staff time</p>	<ul style="list-style-type: none"> - In most cases, Police will not consider a charge unless the amount of chargeable time exceeds five hours. Additional time spent should be charged at \$38 for each half hour or part thereof - Higher rates may be charged where specialist staff not on salary (i.e. contractors) are required to process a request
<p>Photocopying</p>	<ul style="list-style-type: none"> - First 20 pages free, and 20 cents per page thereafter - This applies only to standard A4 sized paper - Non-standard size should be charged at cost - Consideration should be given to providing information electronically to remove photocopying costs.
<p>General expenses of meeting a request</p> <p>These costs can include:</p> <ul style="list-style-type: none"> - providing documents on CD - retrieving information held off-site - reproducing photographs, films, videos, and audio recordings - arranging to hear audio or view video recordings 	<ul style="list-style-type: none"> - Fixed at an amount which recovers up to the actual costs involved

Operational process for charging

Police will undertake the following process when responding to an OIA request where charging may be appropriate.

Receipt/consideration of request

- Police receives a request and determines whether the information considered to be in scope of the request can or cannot be released. A charge can only be considered **once the decision has been made** to release information.
- If the request is likely to consume a considerable amount of labour and/or resources, consideration may be given to appropriate charges for the supply of the requested information. Any grounds to remit a charge, in whole or in part, should be considered at this time.
- Police will make all reasonable efforts to engage with the requester to help them clarify the request and change or refine it in a way that reduces or removes the need to charge (for costs relating to both labour and materials).
- The resource costs associated with applying a charge (i.e. raising and processing an invoice) are borne by Police, and this should be factored into the decision to charge.

Seek approval to charge

- If the staff member responsible for responding to the request considers that a charge may be appropriate, they will seek approval in accordance with the approval process.
- Police will calculate the charge. If the charge is for an aggregated request (multiple requests by a single requester on a similar topic), then the first of the requests aggregated is free and the information pertaining to the following requests is chargeable.

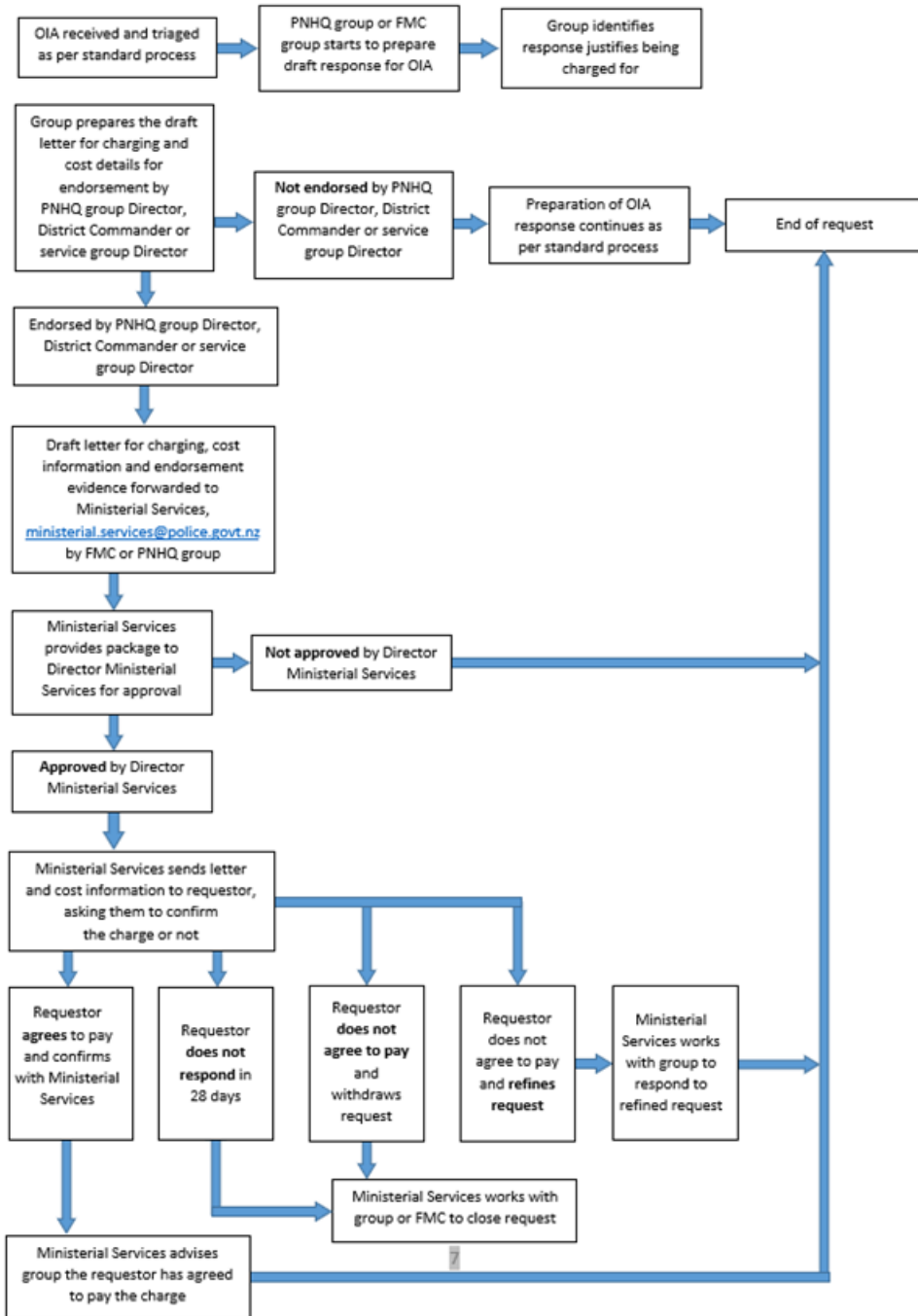
Communicate decision to charge

- Police communicates its decision to release the information subject to a charge to the requester. This communication, which will advise of the maximum possible charge, is made as early as possible and in writing. It should be made clear to the requester if the intention is to release the information in full, or if some will be withheld. If further steps are available to the requester to reduce or remove the charge (e.g. further refinement of the request's scope), then this will also be communicated to the requester. Ask the requester to provide written confirmation that they accept the charge. Comment should be included to the effect that if written acceptance of the charge is not received within 28 days, Police will consider the information to be no longer required and will close the request.
- Wait for confirmation that the requester accepts the charge, or 28 days, whichever comes sooner.
- Should a requester seek remission of a charge, in whole or part, due to hardship, a decision on this should be sought from the Director: Ministerial Services.

Administrative process for charging

- Note in Police's Information Request Tool (IRT) that the requester has accepted a charge and attach the confirmation.
- Submit an [invoice request form](#) for the deposit (half the total charge) to Accounts Receivable (Shared Services) if the requester advises they accept the charge.
- Shared Services will generate the first invoice to the requester.
- Prepare the information for release.
- Release the information to the requester.
- Submit an [invoice request form](#) to Accounts Receivable (Shared Services) for the remainder of the charge. Shared Services will generate an invoice for that amount to the requester.
- On a quarterly basis Ministerial Services will confirm with Shared Services that payment was received for all OIA requests for which a charge was agreed, and update IRT records accordingly.

Appendix Two: Charging Process for OIAs



Appendix Three: Sample Estimate of Costs

Locations searched	
Search term used	
Date range	
Estimated number of documents at issue/to be searched through	
Chargeable activities required	
Estimated minutes per document to complete chargeable activities	
Estimated total time to complete chargeable activities	
Estimated number of pages to be photocopied	

	Quantity	Price	Totals
Labour	hours	\$38/half hour, with the first half hour free	\$ (A - 1x\$76)
Photocopying if applicable)	pages	\$0.20/page, with the first 20 pages free	\$ (B - 20x\$0.20)
Other (specify)		\$	\$
Discount applied due to public interest / hardship (if applicable)	(1 - 100%)		
Total cost			

Appendix Four: Template Charging Letter

[Name and address of requester]

Dear *[name]*

Official information request for *[brief detail of the subject matter of the request]*

I refer to your official information request dated *[date]* for *[quote or set out detail of request]*, reference number IR-01-*[year-number]*.

[Use if granting the request in full and charging]

We have decided to grant your request. However, given the amount of resource required to process your request, we have decided to charge for making the requested information available.

We estimate that the maximum charge will be *[amount]*. *[A discount of [1-100] percent has been applied in recognition of the public interest and/or potential hardship]*. Any unused component of the maximum charge will be refunded to you. For details of how this charge has been calculated refer to the enclosed estimate of costs *[see sample estimate of costs]*.

Before we proceed further with your request, please confirm your agreement to the charge *[and pay the full amount / [amount] as a deposit, with the balance to be paid on release of the information]*. *[Specify how payment should be made]*. We will send you the information within *[time period]* of your payment.

[Use if granting the request in part and charging]

We have decided to grant your request in part, namely information which relates to *[describe information to be released in sufficient detail to enable requester to decide whether to pay the charge]*. We have also decided to refuse your request for information which relates to *[describe information withheld]* under section *[detail relevant section(s)]* of the *[OIA]*, as release would *[describe relevant harm]*.

Given the amount of resource required to process your request, we have decided to charge for making part of the requested information available. We estimate that the maximum charge will be *[amount]*. *[A discount of [1-100] percent has been applied in recognition of the public interest and/or potential hardship]*. Any unused component of this charge will be refunded to you. For details of how this charge has been calculated refer to the enclosed estimate of costs *[see sample estimate of costs]*.

Before we proceed further with your request, please confirm your agreement to the charge *[and pay the full amount / [amount] as a deposit, with the balance to be paid on release of the information]*. *[Specify how payment should be made]*. We will send you the information within *[time period]* of your payment.

[Use in all cases]

You have the right to seek an investigation and review by the Ombudsman of this decision. Information about how to seek a review is available at www.ombudsman.parliament.nz or freephone 0800 802 602.

If you wish to discuss this decision with us, please feel free to contact *[details of contact person]*. *[Contact person]* will be able to assist you should you wish to change or refine your request in order to reduce or remove the need to charge.

Yours sincerely

[Name]

