

REPORT

To: GENERAL PURPOSES COMMITTEE		Subject: FREEDOM OF INFORMATION (SCOTLAND) ACT 2002 - FEES
From: DIRECTOR OF ADMINISTRATION		
Date: 3 December 2004	Ref: JAF/IL	

1. Purpose of Report

- 1.1 The report advises of the issue of Statutory Instruments governing fees chargeable under the Freedom of Information (Scotland) Act 2002 and makes recommendations with regard to the charging of fees.

2. Background

- 2.1 Section 9 of the Freedom of Information (Scotland) Act provides that a local authority receiving a request for information may charge a fee for providing that information. That section gives power to the Scottish Ministers to make regulations making provision for

- the upper limit of any fee
- the way in which the fee is to be calculated
- circumstances in which no fee is to be charged

- 2.2 Two sets of regulations have now been produced – the Freedom of Information (Fees for Required Disclosure) (Scotland) Regulations 2004 and the Freedom of Information (Fees for Disclosure under Section 13) (Scotland) Regulations 2004.

3. Regulations

- 3.1 The Freedom of Information (Fees for Required Disclosure) (Scotland) Regulations 2004 provide that where the total costs which the Council reasonably estimates that it is likely to incur in locating, retrieving and providing information do not exceed £100 no fee shall be payable and, where those costs exceed £100, the fee shall not exceed 10% of the difference between those costs and £100.

- 3.2 The regulations provide, also, that the level for excessive cost of compliance for the purposes of Section 12(1) of the Act – which provides that a Scottish public authority is not obliged to comply with a request for information if the authority estimates the cost of complying with the request would exceed such an amount as may be prescribed in Regulations – is set at £600.

- 3.3 Finally those Regulations provide that any estimate of the cost of staff time in locating, retrieving or providing the information shall not exceed £15 per hour per member of staff.

- 3.4 The Freedom of Information (Fees for Disclosure under Section 13) (Scotland) Regulations relate solely to circumstances in which the Council elects to provide information notwithstanding that the projected costs exceed £600. If the Council so elects, in terms of these Regulations, the fee chargeable shall not exceed £50 plus the amount by which the projected costs exceed £600.

4. **Proposal**

4.1 Within the limits of the Regulations the charging of fees is at the discretion of the Council. As has been indicated in previous reports, however, compliance with this Act will involve costs to the Council and, having regard to the importance of minimising those costs, it is proposed that the Council agree that fees be charged for the provision of information under the Freedom of Information (Scotland) Act as follows:

- Where the projected costs do not exceed £100 – no fee
- Where the projected costs exceed £100 but do not exceed £600 – 10% of the difference between the projected costs and £100
- Where the projected costs exceed £600 but, nonetheless, it is determined that the Council provide the information, £50 plus the amount by which the projected costs exceed £600.

5. **Recommendation**

5.1 It is recommended that the Committee give consideration to the foregoing proposal.


Director of Administration

Members seeking further information on the contents of this report are asked to contact John Fleming, Head of Central Services on Extension 2228.