

Charging guidelines for information privacy requests made under the Privacy Act 2020

Purpose and scope

Under the Privacy Act, an individual has a right to access their personal information and to request that it is corrected.

In most circumstances, the Law Society will not charge the requester a fee for accessing or correcting their personal information. However, in some circumstances, it will be appropriate for the Law Society to charge for access or correction of personal information. These guidelines set out the circumstances when the Law Society may charge and what it can charge for. It also gives guidance on what a reasonable charge may be.

These guidelines have been prepared with reference to the OPC Guide¹.

Definitions

Law Society means New Zealand Law Society | Te Kāhui Ture o Aotearoa.

OPC means Office of the Privacy Commissioner.

OPC Guide means A guide to charging for personal information under the Privacy Act for agencies produced by the OPC.

Privacy Act means Privacy Act 2020.

Requester means the individual making the information privacy request under the Privacy Act or that individual's representative.

Privacy Officer means the individual(s) employed by the Law Society to fulfil the statutory role of the Privacy Officer required by the Privacy Act.

¹ [Charging-guidelines.pdf \(privacy.org.nz\)](https://www.privacy.org.nz/assets/New-order/Your-responsibilities/Charging-to-release-personal-information/Charging-guidelines.pdf) <https://www.privacy.org.nz/assets/New-order/Your-responsibilities/Charging-to-release-personal-information/Charging-guidelines.pdf>

Making information available

The Law Society can only charge for making information available. The Law Society cannot charge for the time spent in assessing or considering if the information will be made available.

The OPC Guide states that charging for the cost of making information available includes:

- the cost of photocopying or scanning the documents.
- the cost of a USB stick or postage.
- time spent locating the relevant information – although the Law Society cannot charge for finding information if it is not where it should be.
- time spent redacting information from a document where there is good reason to withhold it - although the Law Society cannot charge for the time spent in reviewing the information to determine whether any withholding grounds apply.

Factors the Law Society may consider in determining whether to charge

The decision to charge for making information available is at the discretion of the Law Society and is determined on an individual case by case basis. Factors the Law Society may consider in determining whether and what to charge include:

- Recognition of the fundamental right of individuals to access and correct their personal information.
- The need to manage the limited resources available to the Law Society to meet the consumer protection objectives of the Lawyers and Conveyancers Act 2006.
- Whether the information sought has previously been provided (either via a previous request or other process, for example, the Lawyers Complaints Service).
- The person's individual circumstances to the extent that these may be known.

Any charge must be reasonable. This may be lower than the actual cost in responding to a request.

The Law Society will consider the following factors when charging for making information available:

- The cost of labour and materials involved in making the information available.
- Any costs involved in making the information available urgently.
- Where the information is located. The Law Society cannot charge more because the information is not where it should be.
- How the information is being made available. If the requester agrees to receive the information by email, the Law Society cannot charge for the cost of photocopying and posting the documents but may charge for the cost of scanning the documents.

The amount of the charge

The following guidelines apply to fixing a charge in respect of making information available. These amounts are based on the amounts indicated in the Ministry of Justice Charging Guidelines for Handling Official Information Act 1982 requests². The OPC and the Human Rights Review Tribunal

² 2002 charging guidelines (justice.govt.nz) <https://www.justice.govt.nz/assets/Documents/Publications/1982-Official-Information-Act-charging-guidelines.pdf>

have previously relied on these charging guidelines as a reference for requests under the Privacy Act.

- The first hour of employee time is non-chargeable. Following that, a charge of \$38 per half hour (or part of) of employee time may be charged.
- Photocopying or printing on standard A4 paper is charged at a rate of 20c per page after the first 20 pages.
- Other costs are fixed at an amount which covers the actual costs involved. This would include copying material onto memory stick, retrieval of off-site material and courier costs.
- A reduced charge departing from the above rates may be made in circumstances where the Law Society determines it appropriate.

If the decision is made to charge the requester, the Law Society will advise the requester of the general charging guidelines prior to making the information available.

Records

If the Law Society determines that a charge will be payable by the requester, each person working on the request for information will keep a detailed record of the time spent locating the information, redacting any information, photocopying the information, scanning the information, and generally making the information available.

Questions

If you have any questions about these guidelines, please refer them to the Privacy Officer at privacy@lawsociety.org.nz.