

STEPS TO CHARGING FEES

The Freedom of Information and Protection of Privacy Act (FOIP) and The Local Authority Freedom of Information and Protection of Privacy Act (LA FOIP) provide for reasonable cost recovery associated with providing individuals (applicants) access to records. A reasonable fee estimate is one that is proportionate to the work required on the part of the public body (government institution or local authority) to respond efficiently and effectively to an applicant's request. A public body should ensure that it treats all applicants fairly and only charges for activities that are compensable.

After receiving an access to information request and **considering if to charge fees**, follow these steps:

1. DECIDE WHETHER TO CHARGE A FEE

- Decide if an application fee (\$20 if *LA FOIP*) or other fees will be charged. Consider requests for a waiver of fees.
- If the fee is under \$100, the public body does not have to create a fee estimate. If the fee is over \$100, the public body must create a fee estimate if it decides a fee is warranted.

2. MAKE A SEARCH STRATEGY

- Set out steps you are going to take when doing your search.
- A search strategy could include:
 - searching for records in multiple formats;
 - identifying which departments to look in;
 - identifying who will search for the records.
- At this stage, the public body should not be completing the search. The goal at this stage is to develop an estimate of how many responsive records may exist and what it will take to search, prepare and reproduce the records.

3. PREPARE A FEE ESTIMATE

- Based on the search strategy, prepare a fee estimate (refer to OIPC's [Fee Estimate - Quick Calculation Guide](#))

4. PROVIDE FEE ESTIMATE TO APPLICANT

- Provide the fee estimate and ask the applicant for a 50% deposit. It must be provided before the expiry of the 30 day clock.
- The 30 day clock (s. 7 of *FOIP/LA FOIP*) stops until 50% deposit is paid.
- At this stage, the applicant may be incentivized to clarify or narrow the access request to potentially lower the fee estimate and, hopefully, reduce the amount of work for the public body to process the access request.
- If the applicant narrows the access request, then the fee estimate may be lowered and the

applicant should pay a 50% deposit on the lowered fee estimate.

- If applicant is not satisfied with the fee estimate, they may request a review of the fee estimate (s. 49(1)(a.2) of *FOIP*; 38(1)(a.2) of *LA FOIP*).

5. SEARCH FOR RECORDS

- The 30-day clock resumes when the applicant pays the 50% deposit.
- Upon receiving the deposit, the public body should begin searching for records immediately. Each person engaged in the search should document their search efforts (see Checklist). This includes documenting the actual time it took to conduct a search for records. Documentation will be helpful in being accountable to the applicant in demonstrating a reasonable search was conducted, especially if the applicant requests a review by the OIPC. *Search efforts should be reasonable, not exhaustive.*

6. PREPARE RECORDS

- After the records have been gathered, review the records to determine if any information with the records are exempt from disclosure (see webinar, [Modern Age Severing Made A Lot Easier](#)).
- Document the time it takes to physically sever exempt information from records. This will be key in calculating the actual fees.

7. CALCULATE ACTUAL FEES

- Calculate the actual fees. Applicants are not required to pay any fees beyond what was originally estimated (s. 9(2) of *FOIP*/s. 9(2) of *LA FOIP*).
- Where a decision is made to withhold records, applicants should not pay a fee for records withheld (s. 8 of *FOIP Regulations*/s. 7 of *LA FOIP Regulations*).
- If the actual fee is less than the deposit, the applicant is entitled to a refund of the difference (s. 7(2) of *FOIP Regulations*/s. 6(2) of *LA FOIP Regulations*).

8. ISSUE SECTION 7 DECISION

- Issue the final section 7 *decision* indicating the records are available upon payment of the balance of the fee. (See [Section 7 Templates](#)).
- Once the applicant pays the balance, release/forward the records to the applicant.