

Consultation on the introduction of fees and cost limits for Freedom of Information requests

Overview

The Freedom of Information Act 2015 (opens in a new tab) <https://legislation.gov.im/cms/images/LEGISLATION/PRINCIPAL/2015/2015-0008/2015-0008_16.pdf> sets out the requirements and duties of public authorities when responding to Freedom of Information requests. The Act came into effect on a phased basis from 1 February 2016.

The Isle of Man Government's ongoing commitment to openness and transparency is resolute. The policy proposals outlined in this consultation are in no way intended as a barrier to access; rather they seek to strike a careful balance over the right to information alongside effective government and value for the taxpayer.

The purpose of the Freedom of Information Act 2015 is:

To enable persons who are resident in the Island to obtain access to information held by public authorities in accordance with the principles that:

- (a) the information should be available to the public to promote the public interest; and
- (b) exceptions to the right of access are necessary to maintain a balance with rights to privacy, effective government, and value for the taxpayer.

The Cabinet Office, on behalf of the Council of Ministers, looks forward to receiving comments from the public and interested parties and would encourage feedback on this consultation.

Why your views matter

The ability for the public to make Freedom of Information requests to Public Authorities listed in Schedule 1 of the Freedom of Information Act 2015 is a recognised and important established right for the people of the Isle of Man. Before any divergences in current policy position are made the Government wants to hear your thoughts on the potential introduction of fees and cost limits to make a request.

As was outlined above, these proposals are in no way intended as a barrier to the public to make Freedom of Information requests, rather to seek a balance between the right to information and cost-effective Government.

Your opinions and views are truly valued on this important topic and they will be taken under serious consideration by the Council of Ministers before any final policy decision is made on this matter.

Privacy Statement

This consultation is anonymous. Your response will be published as part of a larger summary response document.

If you submit a response, by clicking 'Submit Response' you will give us permission to analyse and include your response in our results. After you click Submit, you will no longer be able to go back and change any of your answers. However, there is an option for you to provide an email address and if you do provide this it will only be used to send a receipt and a link to a PDF copy of your response.

The Cabinet Office would encourage that no personal data is provided however any personal data erroneously or intentionally provided will be anonymised before a response is published and will not be shared beyond the Policy Development Team.

Please read our **Privacy Policy (opens in a new tab)** <[privacy_policy](#)> for more details and your rights.

Reasonable adjustments and alternative formats

The Department is committed to equal opportunities and our aim is to make our documents easy to use and accessible to all.

We will take steps to accommodate any reasonable adjustments and provide such assistance as you may reasonably require to enable you to access or reply to this consultation.

If you would like to receive this document as a paper copy, in another format or need assistance with accessing or replying to this consultation, please email Rachael.Huxley@gov.im or telephone +44 1624 686065.

Responding to this consultation

You can respond to this consultation online by clicking on the 'Online Survey' link below. Alternatively you can download a paper version of this consultation in the 'Related' section below and email it to Rachael.Huxley@gov.im or post it to:

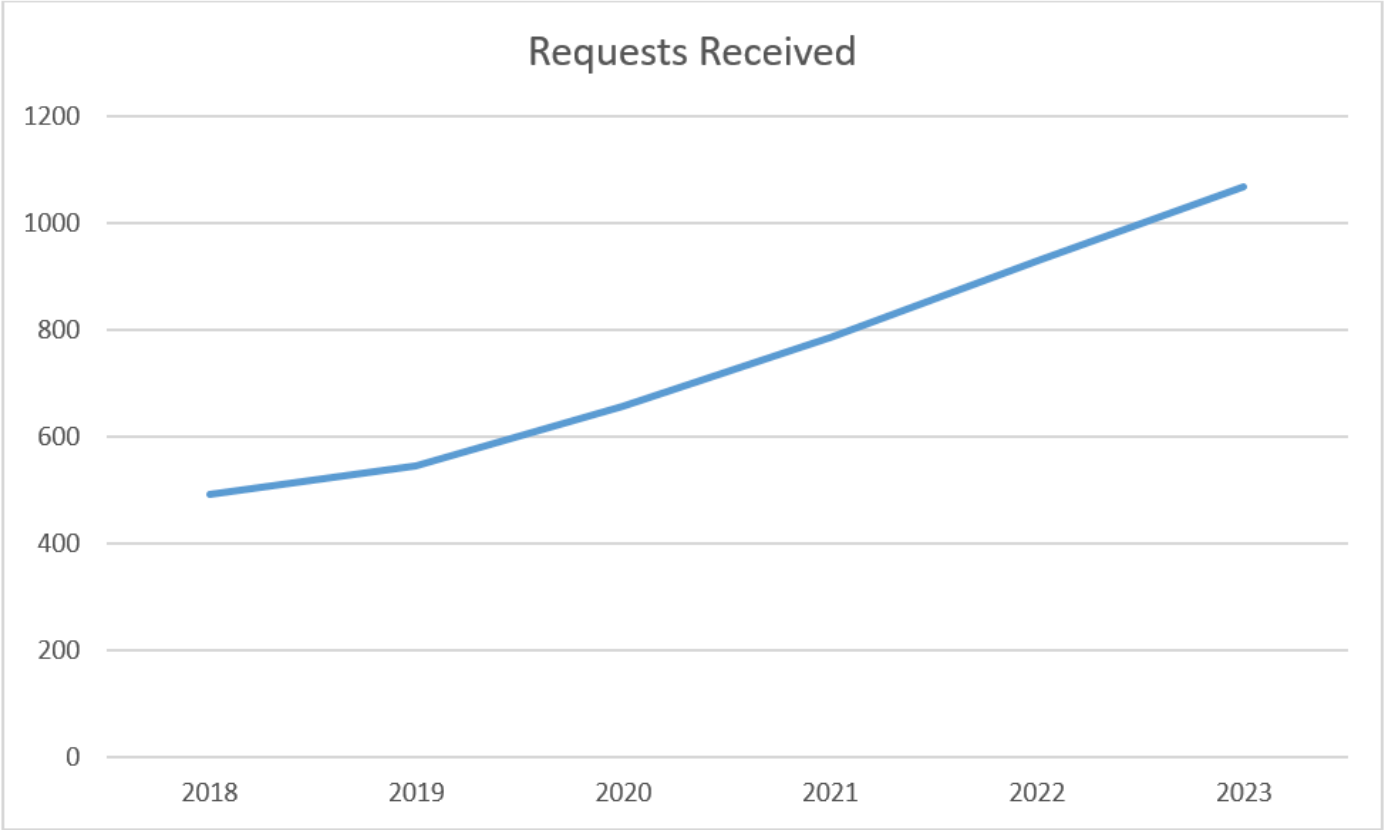
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Impact of the Act

Year on year FOI volumes

Since 2018 (the first year which the system reported figures for cases within all the defined hourly thresholds), requests received have increased at an average rate of 17% per annum. Government received 982 requests in the 2024 calendar year with time taken to resolve requests continuing to rise.

It should also be noted that the data included in this section is only for Government Departments, Statutory Boards and Offices only.



Percentage increase in IOM Government Public Bodies FOI Requests from 2018 to 2024

- 2018: 0%
- 2019: 11.18%
- 2020: 20.11%
- 2021: 19.79%
- 2022: 18.3%
- 2023: 14.82%
- 2024: -9%

We can also observe that requests are taking longer to resolve:

0 to 1 Hourly Threshold

- 2018: 227
- 2019: 238
- 2020: 303
- 2021: 369
- 2022: 437
- 2023: 336
- 2024: 172

1 to 7 Hourly Threshold

- 2018: 211
- 2019: 271
- 2020: 304
- 2021 :370
- 2022: 441
- 2023: 542
- 2024: 567

7 to 18 Hourly Threshold

- 2018: 44
- 2019: 37

2020: 43
2021 :47
2022: 48
2023: 158
2024: 194

18+ Hourly Threshold

2018: 10
2019: 1
2020: 7
2021 :1
2022: 5
2023: 33
2024: 49

Costs to Process FOI Requests

The below table outlines the estimated costs to respond to FOI requests, as the system currently stands. An hourly rate of £34 has been used which was calculated from 2016's [Consultation on a Cost Limit for Freedom of Information Requests \(opens in a new tab\)](https://www.gov.im/media/1357127/consultation-on-a-cost-limit-for-freedom-of-information-requests.pdf) <<https://www.gov.im/media/1357127/consultation-on-a-cost-limit-for-freedom-of-information-requests.pdf>> rate of £25 and allowing for inflation.

To provide an example from the report, in applying the hourly thresholds to 2024's Cases received, and the hourly rate(s) we can observe.

0 to 1 Hourly Threshold

Cases received: 172
Total processing hours: 83
Average hours per case: 0.49
Average cost per case based on hourly rate: £16.50
Total cost to process all cases: £2,839

1 to 7 Hourly Threshold

Cases received: 567
Total processing hours: 1,958
Average hours per case: 3.45
Average cost per case based on hourly rate: £117.39
Total cost to process all cases: £66,560

7 to 18 Hourly Threshold

Cases received: 194
Total processing hours: 1,995
Average hours per case: 10.28
Average cost per case based on hourly rate: £349.63
Total cost to process all cases: £67,828

18+ Hourly Threshold

Cases received: 49
Total processing hours: 1293
Average hours per case: 26.38
Average cost per case based on hourly rate: £896.97
Total cost to process all cases: £43,951

Total cumulative costs: £181,178

It should be noted that the time estimates included above are likely to be the minimum amount of time spent responding to FOI requests and the actual amounts of time expended are likely to be much higher. It is also important to recognise that the time expended by teams and staff making enquiries and co-ordinating large requests can have a real and significant impact on officers providing essential and / or front-line services.

It is clear from the data, that the cost to Government is increasing, along with an increasing number of requests, which indicates that the time is right to revisit consulting on possible policy options to address the issue and provide better value for money for the taxpayer.

Proportion of FOI Requests which has information supplied or provided via the application of a Section 20 (Information Accessible by other means) exemption

The following data has been sourced from the below Public Authorities during the time period of 28 August 2023 to 28 August 2024.

Department of Infrastructure: 143

Cabinet Office: 128

Department of Health and Social Care: 80

The Treasury: 72

Department for Enterprise: 62

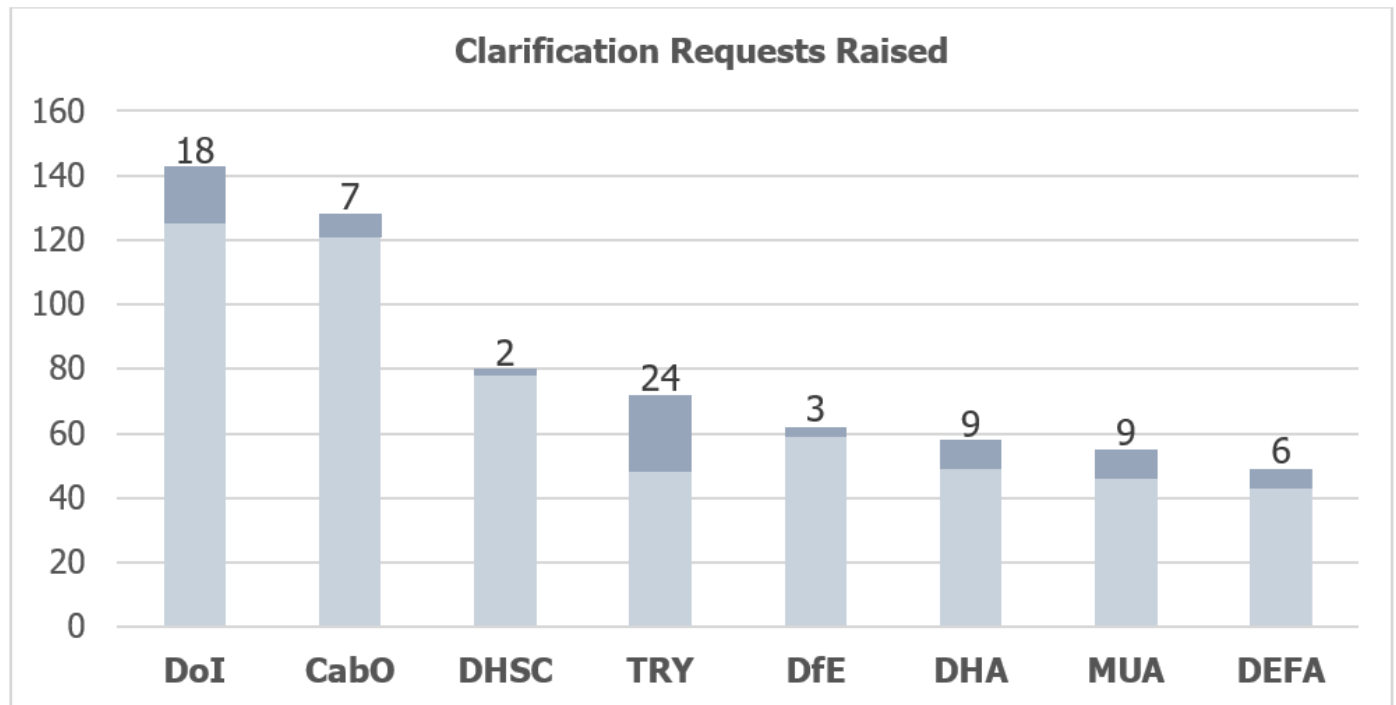
Department of Home Affairs: 58

Manx Utilities Authority: 55

Department of Environment, Food and Agriculture: 49

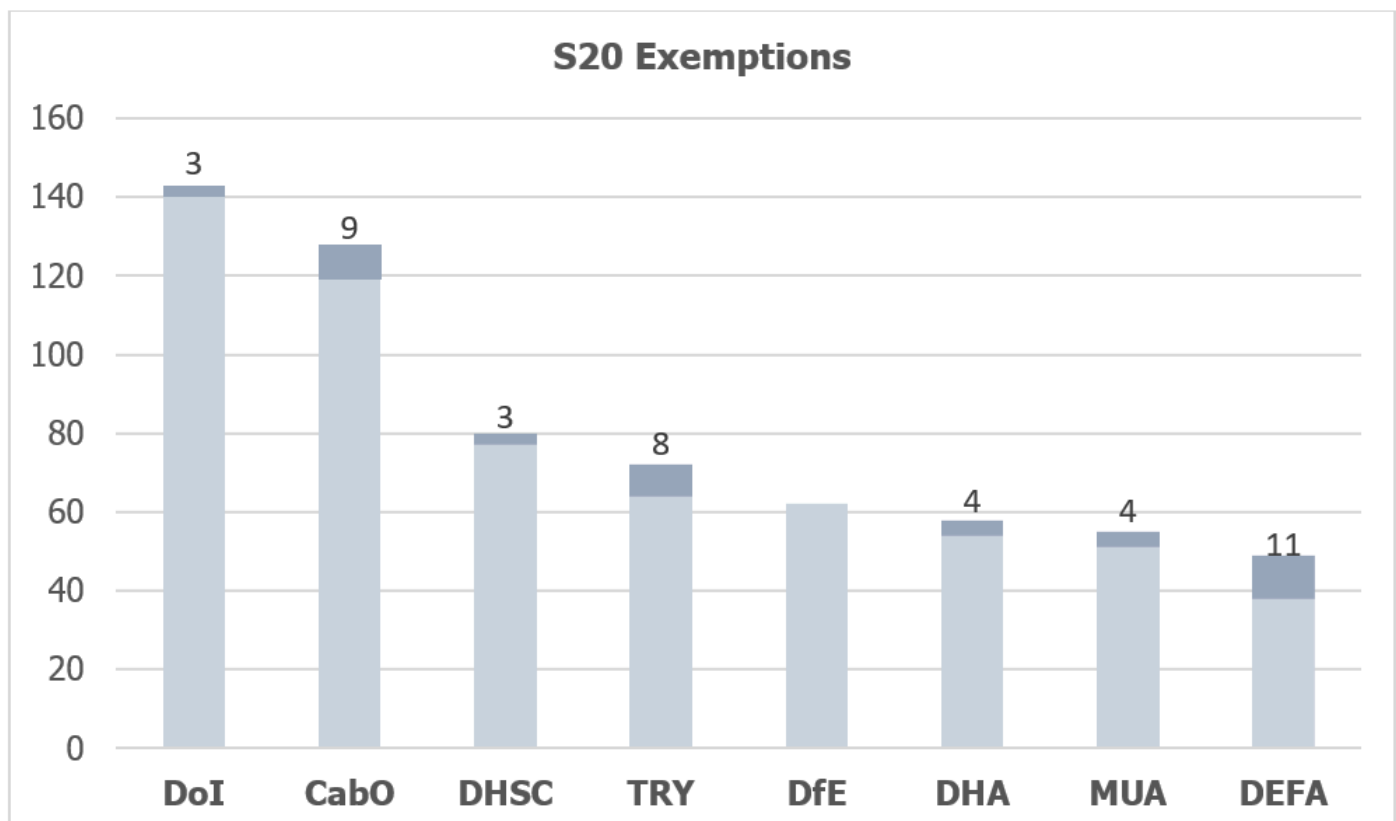
Grand Total: 647

Of the total requests received in the period, 78 (12%) were clarified with the applicant.



Of those requests where clarification was raised, 44 lapsed due to information not being provided.

42 (7%) warranted a Section 20 (Information Accessible by other means) exemption.

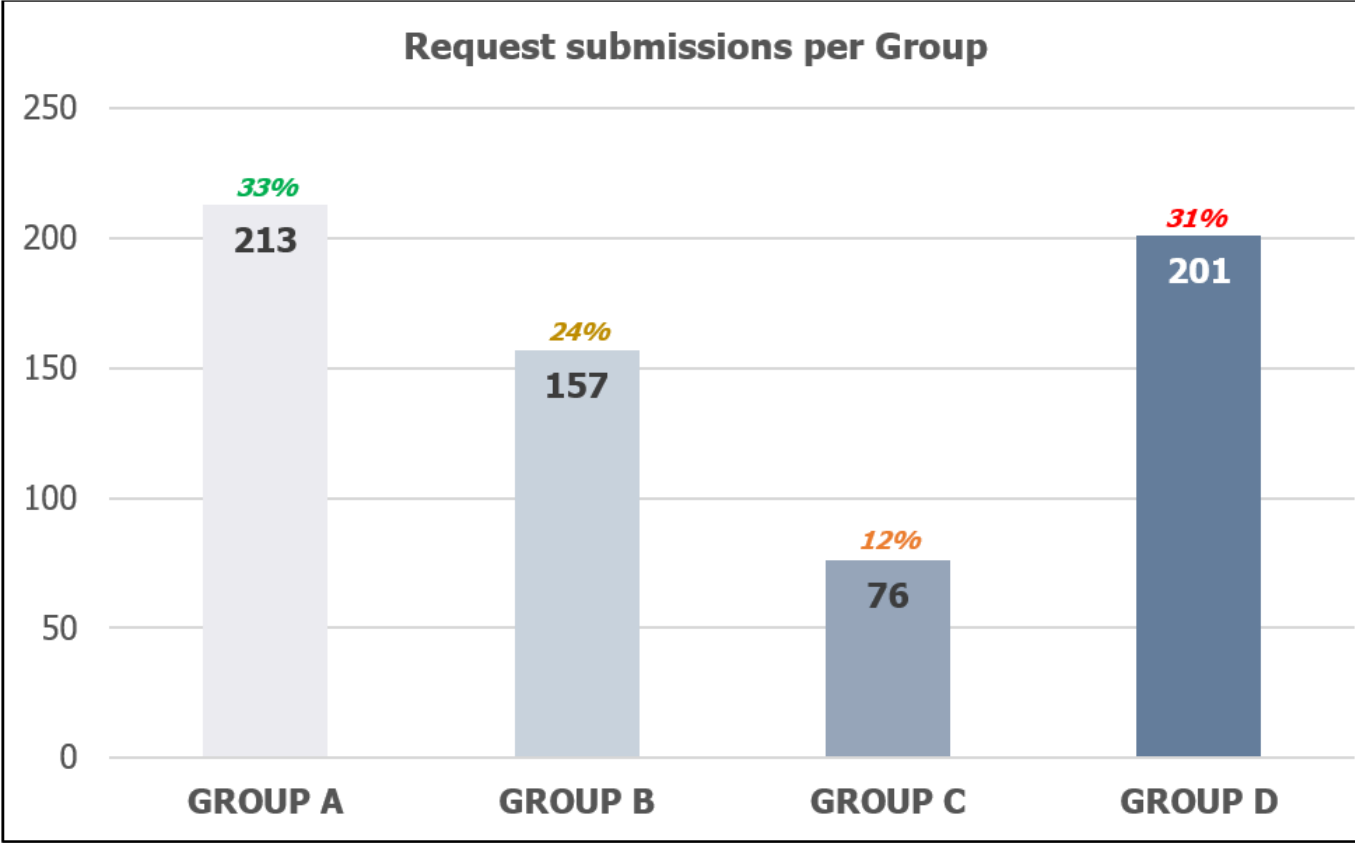


There are only 7 total requests (1%) where both a clarification request was raised with the applicant, and a Section 20 exemption was applied to the request in some way (either wholly or partly).

Number of individuals which submit FOI requests to Departments, Boards & Offices annually

For the purpose of illustrating this at a broader level, requesters have been grouped together based on the number of requests submitted as follows.

- Group A: 213 requesters with 1 request in the period
- Group B: 65 requesters with 2 - 4 requests in the period
- Group C: 12 requesters with 5 - 9 requests in the period
- Group D: 10 requesters with 10+ requests in the period



Based on the above, we can observe that of the 300 requesters who submitted a request in the period, 22 of those (Groups C and D), which account for 7% of requesters, were responsible for 43% of the total requests received in the period.

Of the 87 requesters who submitted more than 1 request, 67 of those (77%) submitted a request to more than one public authority.

We can further observe that the top three requesters of Group D submitted 98 requests in their own capacity, accounting for 15% of the total requests received. These individuals are consistent in that they submitted multiple requests to multiple public authorities in the period, and had a particular focus on a single public authority.

- Requester X: 34 submissions
- Requester Y: 33 submissions
- Requester Z: 31 submissions

It is clear from the data that there is a significant impact being placed upon Government's resources from a disproportionate number of requesters. This highlights the need to address this issue and bring forward policy options to reduce the administrative burden that is being placed upon Public Authorities.

Options for Managing the Impact of FOI Requests

Fees

One method suggested for managing the burden on public authorities is the introduction of an upfront fee payable by the requester at the time of submitting an FOI request.

Section 68 (1) of the Act provides for the Council of Ministers to make regulations regarding the introduction of a fee for requests for information:

'The Council of Ministers may make regulations prescribing the fees payable – (a) to public authorities in respect of - (i) requests for information; and (ii) giving access to information in accordance with this Act'.

To date, no such fees have been payable due to the absence of such regulations.

The introduction of a charge is being considered by Government as it may reduce the number of requests received by public authorities for information that is already available via Government websites, Tynwald or previously published responses. An upfront fee may also discourage purported abuse of the act through submission of vexatious, frivolous or misconceived requests, or 'request campaigns' where the requester has submitted a string of repetitive requests for information relating to the same subject matter.

Section 3 of the Act provides:

'The purpose of this Act is to enable persons who are resident in the Island to obtain access to information held by public authorities in accordance with the principles that:

'(a) the information should be available to the public to promote the public interest; and

'(b) exceptions to the right of access are necessary to maintain a balance with rights to privacy, effective government, and value for the taxpayer.'

Council is therefore cognisant and supportive of the fact that all Isle of Man residents have a right to request information from Government and is seeking views on the introduction of a modest sum so as not to inhibit anyone's right to public information.

However, these rights must be balanced against protecting the resources of a public authority by managing the burden placed on them in an effort to provide greater value for money for the taxpayer.

Cost Limits

The Act gives the Council of Ministers powers to make regulations regarding a cost limit, above which a public authority may refuse to give an applicant the requested information, if the public authority estimates that the cost of searching for or preparing (or both) the information to give to the applicant would exceed the amount prescribed by regulations made for the purposes of this paragraph. **To date, this practical refusal reason has not been used because of the absence of such regulations (opens in new tab)** <https://legislation.gov.im/cms/images/LEGISLATION/PRINCIPAL/2015/2015-0008/2015-0008_16.pdf#page=13> . These regulations would include the methodology for estimating the cost of supplying information.

Any implementation of a cost limit will result in a request being refused if it exceeds the cost limit, however as set out at point 3.9, Public Authorities will still be required to advise and assist applicants to form a concise targeted request for information.

Since the previous consultation in 2016 (opens in new tab) <<https://www.gov.im/media/1357127/consultation-on-a-cost-limit-for-freedom-of-information-requests.pdf>> , and the experience of all public authorities, views are sought from the public on the proposal that a cost limit is put in place, to provide a level of protection against the impact caused by the time taken to respond to some FOI requests. To support the spirit of the Act any provisions should balance protecting the resources of a public authority by managing the burden placed on them whilst at the same time not discouraging the making of FOI requests. It is anticipated that the introduction of a cost limit would, in turn, encourage better formulation of concise, targeted requests by applicants.

Public Authorities would still be required to demonstrate compliance with their duty to advise and assist applicants (opens in new tab)

<https://legislation.gov.im/cms/images/LEGISLATION/PRINCIPAL/2015/2015-0008/2015-0008_16.pdf#page=15> in formulating a concise, targeted request for information in a manner which would not require the public authority to exceed any cost limit, and must reasonably attempt to remove the practical refusal reason before issuing the applicant with a refusal notice.

Issues on which your views are sought

Cost Limits

Jersey has a cost limit of 12 and a half hours for Freedom of Information requests. Their legislation recognises that there has to be a limit on the amount of time and staff resources which can be spent when answering a single FOI request. [The request may be refused under their FOI legislation if it is estimated that it will take more than 12 and a half hours to answer \(opens in a new tab\)](https://www.jerseylaw.je/laws/current/Pages/16.330.10.aspx) <<https://www.jerseylaw.je/laws/current/Pages/16.330.10.aspx>> , conversely if it is estimated to take fewer than 12 and half hours the request will be answered free of charge.

[The UK have a cost limit of £600 for central Government with £450 for all other local authorities \(opens in a new tab\)](https://www.legislation.gov.uk/ukSI/2004/3244/contents/made)

<<https://www.legislation.gov.uk/ukSI/2004/3244/contents/made>> , calculated at an hourly rate of £25 per person therefore providing time limits of 24 hours for central Government and 18 hours for all other public authorities.

[Ireland will charge in full if a request is estimated to cost between 101 and 500 euros \(opens in a new tab\)](https://www.citizensinformation.ie/en/government-in-ireland/how-government-works/standards-and-accountability/freedom-of-information/) <<https://www.citizensinformation.ie/en/government-in-ireland/how-government-works/standards-and-accountability/freedom-of-information/>> , if a request is estimated to cost greater than 700 euros, it can be refused. Costs are calculated at 20 euros per hour for the search and retrieval of records.

Due to the relative size of the Isle of Man in relation to the UK and Ireland it is determined that the most accurate and prudent comparison to make is to Jersey's model. As evidenced in the table below, which shows that over the last 2 years the number of requests received by both jurisdictions are at a similar level.

IOM Requests Received

2018: 492

2019: 547

2020: 657

2021: 787

2022: 931

2023: 1069

2024: 982

Jersey Requests Received

2018: 798

2019: 985

2020: 926

2021: 1207

2022: 883

2023: 1013

2024: 1165

It is proposed that the introduction of a cost limit could provide such protection for public authorities without the need to adopt an upfront fee for making requests. The views of the public are sought on the following policy proposals for such a limit.

The below proposal is in line with Jersey's policy, who calculate the cost of responding to a FOI request at a rate of £40 per hour taken at a maximum cost limit of £500. This therefore provides a time cost limit of 12 and a half hours for a request. Taking the same cost limit (£500) and using the Island's calculation of hourly cost to respond to a FOI request (£34), this provides a cost time limit of 15 hours.

There is a possibility within the Freedom of Information system as it currently stands for overlapping requests, where a public authority is dealing with several requests at any one time from the same requestor to the detriment of others. This impacts the ability of the public authority to either respond on time or continue with its own day to day business. The below is in line with regulations in the UK and Jersey. There is a large impact being placed on Government's resources from a small number of requesters. The below policy option may provide an effective remedy to this issue.

Both the UK's and Jersey's respective cost limit regulations draw a distinction between public authorities which form part of central government and those which do not. They each recognise that a government department has greater resources to manage FOI requests and therefore set a lower costs limit for other public authorities.

This principle could be extended to public authorities such as small publicly-owned companies or smaller local authorities in an effort to reduce the administrative burden that will be placed on them when subject to the requirements of the Act.

Are you responding on behalf of an organisation?

Please select only one item

☐ Yes

☐ No

Organisation

Would you support a proposal that a public authority can refuse to comply with a request if it estimates that it will take more than 15 hours to answer, therefore setting a prescribed limit of £510 in each instance.

Please select only one item

- ☐ Yes
- ☐ No

Please explain your answer:

Would you support a proposal that two or more similar requests from one person or by different persons that appear to be acting in concert or in pursuance of a campaign, received within 60 days of each other can be aggregated for the purposes of calculating if the prescribed cost limit is exceeded.

Please select only one item

- ☐ Yes
- ☐ No

Please explain your answer:

Should it be recognised within any regulations that smaller public authorities outlined within Schedule 1 that are not central government departments will have fewer resources and that a lower costs limit should be adopted in respect of these, for example for those authorities who employ fewer than 20 full time officers?

Please select only one item

- ☐ Yes
- ☐ No

Do you have any comments or feedback?

Do you have any other comments or suggestions regarding the introduction of cost limits for Freedom of Information requests?

Issues on which your views are sought

Initial Fees

Victoria, Australia

Application fee of \$31.80 for making a request under the Freedom of Information Act 1982 (Vic), subject to an increase on 1 July every year.

South Africa

35 rand for a request to a public body under the Promotion of Access to Information Act.

Canada

\$5 application fee for a request under the Access to Information Act.

The research above shows that a small number of other jurisdictions operate a policy of charging for making a FOI request. Despite this and the fact that those jurisdictions which do follow this policy are not comparable nations, it does not mean that such a policy could or should not be implemented on the Island.

Further to the report <<https://www.tynwald.org.im/spfile?file=/business/opqp/sittings/20212026/2024-GD-0037.pdf>> **(GD/0037) to Tynwald at May's sitting (opens in a new tab)** <<https://www.tynwald.org.im/spfile?file=/business/opqp/sittings/20212026/2024-GD-0037.pdf>> , and the acknowledgement of a need for reform of the current FOI system at that debate and at December 2023's sitting of Tynwald Court, this potential policy could prove an effective remedy. A balance will need to be struck to ensure compliance with Section 3 of the Act, however.

Wider views from the public are welcomed to provide an alternative viewpoint from the side of the user and therefore a different perspective on the system, which may have the benefit of being able to identify potential pitfalls or other concerns in respect of the proposed policy principles.

The Council of Ministers are minded to introduce a fee to make a Freedom of Information request, what are your opinions?

What do you consider to be a reasonable fee?

Please select only one item

- ☐ £10
- ☐ £15
- ☐ £20
- ☐ £25
- ☐ Other (please specify)

Please specify other amount:

If fees were introduced, how do you believe they should be implemented to minimise negative impacts?

Do you have any other comments or suggestions regarding the introduction of fees for Freedom of Information requests?

Summary

The introduction of cost limit regulations would form the balance to providing access to Freedom of information to the public whilst also providing the means by which requests that would significantly impact a public authority as defined by Schedule 1 of the Act to be refused.

Introduction of costs for FOI requests via cost limits or initial charges represents a policy change for the Isle of Man FOI regime and; in the interests of transparency and in the spirit of the Act, this public consultation on the principles of the proposed cost limit and initial charges, is considered appropriate to gauge the views of stakeholders.