

THE FIRST EIR INFORMATION TRIBUNAL

The first EIR Information Tribunal took place on 21 February 2006. The case was brought by Mr David Markinson (supported by Friends of the Earth) against the Information Commissioner. The case centred around the charges made for photocopies of planning information.

Mr Markinson had requested copies of planning information relating to the original planning application for his house from King's Lynn and West Norfolk Borough Council. The Council informed him that they charged £6 for each building control or planning decision notice and 50p for each other photocopy sheet contained in a planning file. These documents were free to view at the Council offices but, as there were many pages and they were complex, Mr Markinson wanted to take copies home. He considered that the charges being made were unreasonable and complained to the Council and subsequently to the Information Commissioner and the Information Tribunal.

The complaint and the Tribunal Hearing hinged on the correct interpretation of what is a "reasonable" charge¹ for photocopies and whether it is the Information Commissioner's duty to judge what is reasonable. The Information Commissioner had found in favour of the Council and in his decision notice stated that "the council had satisfied itself that the charges were reasonable and in so doing, had complied with the regulations".

The Tribunal agreed with Mr Markinson that the charges were unreasonable and suggested that a charge of 10p per copy was the recognized guideline figure. The Tribunal also stated that public authorities should disregard any staff costs or any other factors beyond the number and size of sheets when deciding on photocopying charges.

What is the Significance of this Decision to Other Public Authorities?

- 1) Any charges that a public authority makes for providing Environmental Information must be reasonable to the general public as well as to the authority themselves.

¹ . Regulations 8 of the EIRs covers charging and is as follows:

*8 -(1) Subject to paragraphs (2) to (8), where a public authority makes environmental information available in accordance with regulation 5(1) the authority may charge the applicant for making the information available.
(2) A public authority shall not make any charge for allowing an applicant
(a) to access any public registers or lists of environmental information held by the public authority; or
(b) to examine the information requested at the place which the public authority makes available for that examination.
(3) A charge under paragraph (1) shall not exceed an amount which the public authority is satisfied is a reasonable amount.*

- 2) Public Authorities should review their policies on photocopying charges for environmental information, particularly planning information, and be aware that they will require strong justification to charge more than 10p per copy.