



Recovering CCTV costs

To: All contacts

Key issues

Cost recovery when issuing CCTV footage to individuals and other organisations
Local authority duty to recover reasonable costs
Highlights some operational approaches taken to cost recovery

1. Introduction

A recent APSE query highlighted the issue of cost recovery following requests for CCTV footage. This briefing will look at some of the responses received, the different approaches taken and how charges may be made.

The issue was raised by a local authority that operates a public space CCTV service which is operational 24 hours a day and 365 days per year and incurs significant revenue costs. They have approximately 160 public space CCTV cameras and receive a lot of enquiries from insurance companies requesting footage. They have to date only ever charged the Data Subject Access (DSA) request fee of £10, a charge which is significantly less than the cost associated with the production of this evidence. They were looking to review their charges and as a result were keen to learn of the arrangements that other local authorities have in place to charge for the provision of footage to insurance companies and other non-prosecuting bodies.

2. Survey responses

A survey of 20 authorities identified that 3 of them make no charge for providing CCTV footage. One is in the process of reviewing this. Another 10 of the 20 charge only the £10 minimum DSA fee to individuals, insurance companies and other parties. The remainder charge a range of fees as follows - £45; £50; £75 (to review the footage and then a further £75 for the evidential product); £83.30 (and a further £18.70 if the footage is useful); £87; and £181.39.

Some of the respondents have been charging for a number of years whilst others have only started doing so recently. The charges made by some local authorities are contained within the annual Fees and Charges report and reported to senior management and councillors.

It appears that some charge differently depending on whether the request is from an individual asking for footage relating to themselves or for example from an insurance company acting on their behalf. Others make a blanket £10 charge for all.

Further anecdotal information points to a range of fees across other local authorities of between £30 and £125.

3. Specific issues

One local authority, after taking legal advice, had set a charge at £100 for up to 4 hours of viewing time with a further £25 per additional hour as well as £35 to release any footage. They had then had the charge approved by council. They subsequently heard that a London borough had been visited by representatives of the Information Commissioners Office, who said that they were only permitted to charge £10. As a result they took the decision to stop making the charge that it had previously agreed and reverted to the £10 charge.

There is no doubt that there is value in providing CCTV information for those requesting it. It can help individuals with insurance claims; aid the emergency services in investigations about criminal acts and other events, as well as identifying those who may have committed criminal acts. However, there is a cost for providing this type of information.

There is a duty on local authorities to ensure that all relevant costs are covered when these charges are set. This might include items such as receiving and responding to letters/e-mails; operator viewing footage; burning footage to discs; the cost of sundries; recorded delivery postage and checking by managers. If the local authority does not act upon this duty they are not carrying out their responsibilities in line with the law and can be investigated accordingly. Therefore they have a legal duty to adhere to, as well as a moral duty of ensuring local council tax and business rate payers aren't subsidising insurance companies or indeed any other organisations.

There will be a cost incurred by the local authority whether footage is useful to the person making the request or not. Those responsible for the CCTV service are under a duty to charge when the costs arise, irrelevant of the outcome for the person making the request.

If an individual makes a request for footage the maximum fee that can be charged is £10. Furthermore if the insurance company make a request on behalf of a named individual and that person provides written authorisation to this effect, then technically, the request is also a subject access request under section 7 of the Data Protection Act 1998, and as such the £10 fee and the cost of postage is the maximum that can be charged.

If the request is simply from the insurer, then this would not represent a subject access request and therefore you could impose a reasonable charge i.e. recover the full cost of providing the footage, this can include staff time.

One of the local authorities receiving these requests makes sure that the injured party comes to collect the evidence in person to ensure that they are the injured party and that they can sign a declaration of confidentiality. In this case they charge the £10 fee and make sure that the person is aware that the £10 charge must be paid regardless of whether any evidence is found or not and they ensure that payment is received before contacting the injured party to let them know the outcome.

A number of replies specified that the data is only sent out on receipt of payment whilst another noted that all such requests go through their data protection office.

Needless to say there will be a range of local circumstances which affect individual charging regimes but the principle of recovering costs where they can be recovered should always be acted upon.

Some local authorities find that insurance companies ask the injured party to request footage, rather than doing it themselves, as this then has to be classed as a data subject access request with the associated £10 charge.

4. Example of charges

The following is a copy of the costs allocated to the process of compiling the evidence and the justification for charges. It has been in place in a metropolitan district authority for some time and relates to those requests which are not made under FOI/DSA legislation.

			Unsuccessful requests	
Manager receiving letter/e-mail and processing	1 hour (whole or part thereof) @ £17.00 per hour	£17.00		£17.00

Manager responding to acknowledge letter/e-mail	1 hour (whole or part thereof) @ £17.00 per hour	£17.00		£17.00
Operator checking footage	1 hour (whole or part thereof) @ £14.00 per hour	£14.00		£14.00
Manager checking footage if found or not	1 hour (whole or part thereof) @ £17.00 per hour	£17.00		£17.00
Operator producing disc	1 hour (whole or part thereof) @ £14.00 per hour	£14.00		
Sundries		£2.50		£2.50
Footage sent by recorded delivery		£3.50		
		£85.00		£67.50
	VAT @20%	£17.00	VAT @20%	£15.80
	Total	£102.00		£83.30

The above example applies to one local authority of course and the specific hourly rates and other costs quoted here will vary across authorities. However the point remains that once a transparent process is identified and publicised and once those requesting the data know what they will be expected to pay, an appropriate charge can be made and all costs can be covered.

Another authority, which charges £181.39 as the fee, calculated a figure that accounted for real cost by including elements such as infrastructure costs, retrieval time and invoicing costs. Again this authority has spent time allocating costs and identifying them.

One council noted that requests made by individuals take on average half an hour in each case to investigate and burn off any relevant footage and as such the £10 fee is adequate. This case highlights the differences across separate local authorities. The table above notes that the CD and postage together cost £6 before any costs are allocated to other elements of the work. Clearly in cases where only a fee of £10 can be charged then the local authorities' arms are tied but in other cases a realistic fee reflecting full charges should be set.

There is a trend emerging which was mentioned by a number of those responding to this query which is that the insurance company are requesting the individual to request the footage. This development is for the benefit of no-one except the insurance company and is clearly frustrating for those providing CCTV services and looking to generate income. However there seems little that they can do about it other than inform individuals that they are under no obligation to request the footage and that their insurers can do it on their behalf.

The principle is also relevant for stand-alone installations covering for example, the properties and boundaries of civic building such as schools, halls and community centres, museums, libraries, offices and residential units. These cameras might not be remotely monitored, but they still record and retain footage for a period of time which is potentially useful for criminal and insurance matters.

5. Information Commissioners Office

APSE contacted the ICO and asked whether "private companies or other public organisations who request CCTV footage can be charged the full cost of providing it?"

The response we received referred to status access requests under the Data Protection Act and stated that where an individual makes a request for their own personal data (i.e. footage with them in it, such as falling off a kerb) a charge of up to £10 can be made.

Where an insurance company or other agent, acting on behalf of the individual, makes a request for their client's personal data (i.e. footage with the individual in it), once again a charge of up to £10 can be made.

Where an insurance company or other agent makes a request for footage of an incident on behalf of a client which does not include the individual's personal data (such as a case where a car is parked outside council premises and is hit by another car when the owner is away from it), the council can charge whatever the cost of producing the footage is as long as the other elements of the Data Protection Act are adhered to.

The organisation with the footage is not bound to produce the footage in the case where it is not a subject access request, for example if they don't want to incur the cost.

APSE comment

Local authorities have a duty to ensure that they cover the cost involved in services provided, where they are able to. In some circumstances they are not allowed to. In the case of an insurance company or indeed another public service provider requesting information, which is not a subject access request for a client, they are entitled to charge. In the case of other public service providers it will be sensible to consider the wider value of providing such information for example to the local police force or fire and rescue service especially where public organisations work closely together. However, in the case where an insurance company makes the request a completely different set of values should apply.

A number of respondents noted that the £10 fee is totally inadequate in covering the associated costs but that they still make the charge. It would be interesting to know whether they are able to identify the cost of raising and processing the associated invoice. After all the local authority does not have to make the £10 charge if it does not wish to do so. If the cost of raising and processing an invoice is more than £10, which it most probably is, then they are adding a further cost through their own actions. The question then arises about whether it is cheaper if they do not charge the £10 fee at all.

It is APSE's view that local authorities should consider the issues raised in this briefing and establish clearly defined policy in this area.

Clearly there are a range of circumstances for which footage may be requested and they cannot all be covered here. For specific cases we suggest you contact your own legal officers or the Information Commissioners Office at <http://ico.org.uk/>

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