



Australian Government
Department of Finance

Reference: FOI 23-24/034
Contact: FOI Team
E-mail: foi@finance.gov.au

Me
via Right to Know website

By email only: foi+request-10722-40ce0565@righttoknow.org.au

Dear Me,

Freedom of Information Charges Decision Letter – FOI 23-24/034

On 29 September 2023, the Department of Finance (Finance) received your email, in which you sought access to the following under the Commonwealth *Freedom of Information Act 1982* (FOI Act):

For all unsuccessful (note 'un') act of grace applications made against ASIC for the period 1 July 2021 - 30 June 2023, I request:

- A copy of the record entered in the SFC database regarding the application (see FOI 22/119 Document 1)
- Where the application was for more than \$100,000 (including more than \$500,000), the Ministerial Submission regarding the application
- Where the application was for under \$100,000, the Minute that contains the reasons for refusal (for the avoidance of doubt, this includes any sort of briefing covered by the policy disclosed under 22/119. It may simply be an email)
- Where the final decision came after a reconsideration by the Ombudsman or Federal Court, a copy of the final reasons for decision given by the Ombudsman or Federal Court.

On 19 October 2023, you agreed to amend the scope of your request by the following:

... the 10 most recent decisions before 30 June 2023, where the decision:

- is not substantially the same as another decision in the set of 10 (that is, the facts underlying each decision are not similar), and
- resulted in the production of a minute, or other document containing substantive reasons for decision.

Initial Charges Estimate

On 30 October 2023, Finance notified you of the \$255.00 preliminary assessment of the charges payable by you for Finance to process your request.

Contention of the charges

On 4 December 2023, you outlined your contention of the preliminary assessment charge and sought waiver of the charges. A copy of your contention is at **Attachment A**.

Authorised decision-maker

I am authorised by the Secretary of Finance to issue a charge for access to documents.

Charges decision

I have decided to waive the preliminary charge assessment of \$255.00.

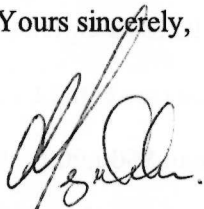
Consideration of contention

In considering whether charges should be reduced or waived, I have had regard to the following:

- the terms of your FOI request;
- the submissions set out in your contention of 4 December 2023;
- the content of the documents that fall within the scope of your request;
- the relevant provisions of the FOI Act and the *Freedom of Information (Charges) Regulations 2019* (Regulations);
- the FOI Guidelines issued by the Office of the Australian Information Commissioner (OAIC).

Please contact the FOI Team if you wish to discuss your request.

Yours sincerely,



Meagan Wilson
Assistant Secretary

Comcover and Discretionary Payments | Risk, Insurance and Discretionary Payments
Department of Finance

17 January 2024

How do I apply?

Internal review

To apply for an IR of the decision of either Finance or the Minister, you must send your review in writing. We both use the same contact details, and you must send your review request in writing.

In your written correspondence, please include the following:

- a statement that you are seeking a review of our decision;
- attach a copy of the decision you are seeking a review of; and
- state the reasons why you consider the original decision maker made the wrong decision.

Email: foi@finance.gov.au

Post: The FOI Coordinator
Legal and Assurance Branch
Department of Finance
One Canberra Avenue
FORREST ACT 2603

External review (Information Commissioner Review)

For an ER, you must apply to the OAIC in writing. The OAIC ask that you commence a review by completing their online form [here](#).

Your application must include a copy of the notice of our decision that you are objecting to, and your contact details. You should also set out why you are objecting to the decision.

Email: FOIDR@oaic.gov.au

Post: Office of the Australian Information Commissioner
GPO Box 5218
Sydney NSW 2001

The IC's enquiries phone line is 1300 363 992.

Can I appeal the Information Commissioner's external review decision?

Yes. You can appeal the Information Commissioner's ER decision to the Administrative Appeals Tribunal (AAT).

There is a fee for lodging an AAT application (as at 12 October 2022 it is \$1,011).

Further information is accessible [here](#).

The AAT's number is 1800 228 333.

Complaints

Making a complaint to the Office of the Australian Information Commissioner

You may make a written complaint to the OAIC about actions taken by us in relation to your application.

Further information on lodging a complaint is accessible [here](#).

Investigation by the Commonwealth Ombudsman

The Ombudsman can also investigate complaints about action taken by agencies under the FOI Act. However, if the issue complained about either could be, or has been, investigated by the IC, the Ombudsman will consult with the IC to avoid the same matter being investigated twice. If the Ombudsman decides not to investigate the complaint, then they are to transfer all relevant documents and information to the IC.

The IC can also transfer a complaint to the Ombudsman where appropriate. This could occur where the FOI complaint is only one part of a wider grievance about an agency's actions. You will be notified in writing if your complaint is transferred.

Complaints to the Ombudsman should be made online [here](#).

The Ombudsman's number is 1300 362 072.



Australian Government

Department of Finance

Freedom of Information – Your Review Rights

If you disagree with a decision made by the Department of Finance (Finance) or the Minister for Finance (Minister) under the *Freedom of Information Act 1982* (the FOI Act) you can have the decision reviewed. You may want to seek review if you sought certain documents and were not given full access, if you have been informed that there will be a charge for processing your request, if you have made a contention against the release of the documents that has not been agreed to by Finance or the Minister, or if your application to have your personal information amended was not accepted. There are two ways you can seek a review of our decision: an internal review (IR) by Finance or the Minister, or an external review (ER) by the Australian Information Commissioner (IC).

Internal Review (IR)

If, Finance or the Minister (we/our), makes a Freedom of Information (FOI) decision that you disagree with, you can seek a review of the original decision. The review will be carried out by a different decision maker, usually someone at a more senior level.

You must apply for an IR within 30 calendar days of being notified of the decision or charge, unless we agree to extend your time. You should contact us if you wish to seek an extension.

We are required to make an IR decision within 30 calendar days of receiving your application. If we do not make an IR decision within this timeframe, then the original decision stands.

Review by the Australian Information Commissioner (IC)

The Office of the Australian Information Commissioner (OAIC) is an independent office who can undertake an ER of our decision under the FOI Act. The IC can review access refusal decisions, access grant decisions, refusals to extend the period for applying for an IR, and IR decisions.

If you are objecting to a decision to refuse access to a document, impose a charge, or a refusal to amend personal information, you must apply in writing to the IC within 60 calendar days of receiving our decision.

Third parties

If you are a third party objecting to a decision to grant someone else access to your information, you must apply to the IC within 30 calendar days of being notified of our decision to release your information. Further assistance is located [here](#).

Do I have to go through the internal review process?

No. You may apply directly to the OAIC for an ER by the IC.

If I apply for an internal review, do I lose the opportunity to apply for an external review?

No. You have the same ER rights of our IR decision as you do with our original decision. This means you can apply for an ER of the original decision or of the IR decision.

Do I have to pay for an internal review or external review?

No. Both the IR and ER are free.