



Australian Government
Department of Health

Mr Will Tregoning

Via email: foi+request-1122-077ff2b4@rightto know.org.au

Dear Mr Tregoning

Your Freedom of Information Request No. 311-1415

I refer to your letter of 14 July 2015 seeking a waiver of charges in relation to your request for access under the *Freedom of Information Act 1982* (the FOI Act) to the following FOI request on the basis that the charges were wrongly assessed and the information is in the general public interest:

- 1) a document outlining the terms of reference for the Intergovernmental Committee on Drugs;*
- 2) the document listing the names of the current IGCD Committee members.*
- 3) the IGCD annual reports for years 2012-2013 and 2013-2014'*

This letter sets out my decision on your request for waiver of the charges.

I am an authorised decision-maker under section 23 of the FOI Act.

Decision - Request for Waiver of Charges

On 9 July 2015, I notified you of your liability to pay a charge of \$370.82 in relation to the processing of your request and the manner in which that charge was calculated. On 14 July 2015, the Department received your request for waiver of charges on the basis that the charges were wrongly calculated and the release of the documents is "in the general public interest". I have considered your request for a waiver of charges and have decided to reduce the charges by 50 per cent. The reasons for my decision are set out at Attachment A.

As I have decided to waive 50 per cent of the charge your estimated charge liability is now \$185.41.

Deposit

I have also decided that you are required to pay a deposit. As the reduced charges is greater than \$100.00 a deposit of 25% is required, this being \$46.35.

Payment of a deposit will be taken as your authority for us to proceed with the processing of your request and your agreement to pay the full revised charge in which case you will become liable to the Commonwealth for the full cost of the revised processing charge. Your

deposit payment should be received within 30 days by way of cheque or credit and sent to either of the following:

FOI@health.gov.au; or

FOI Coordinator (MDP 41)
Department of Health
GOP Box 9848
CANBERRA ACT 2601

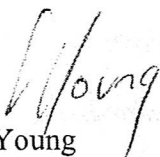
Review rights

You are entitled to seek review of this decision. Your rights are set out at Attachment B to this letter.

Contacts

If you require clarification of any of the matters discussed in this letter, you should contact the Department's FOI Director on (02) 6289 1666, or by email at FOI@health.gov.au.

Yours sincerely


Linda Young
Assistant Secretary
Drug Strategy Branch
4 August 2015

ATTACHMENT A – REASONS FOR DECISION

Material taken into account

In making my decision, I had regard to the following:

- The terms of your request for waiver of charges, and your submissions and other supporting material;
- The content of the documents to which you sought access;
- Advice from Departmental officers with responsibility for matters relating to the documents to which you sought access;
- The relevant provisions of the FOI Act; and
- Guidelines issued by the Australian Information Commissioner under section 93A of the FOI Act, which are available on the Office of the Australian Information Commissioner's website.

Findings of fact and reasons for decision

Under the FOI Act, in determining whether to waive or reduce the charges, a decision-maker is required to take into account:

- a) whether paying the charges would cause the applicant financial hardship, and
- b) whether giving access to the document is in the interests of the general public, or a substantial section of the public.

A decision-maker may take into account any other factor he or she considers relevant.

Will the payment of the charge cause financial hardship?

Your application to waive charges did not provide any evidence that the imposition of charges would cause financial hardship. Therefore, I find that this is not a relevant factor in this case.

Is the giving of access in the public interest?

Giving of access will be in the public interest where it will be of benefit to the public at large. It is not enough that the information in the documents sought is interesting or of curiosity value to the public at large. It is also not sufficient that the document is of benefit to the applicant. There must be a 'general public interest' or substantial section of the public' that would benefit from disclosure.

The question of whether disclosure is in the public interest requires consideration of whether disclosure of the document at all would benefit the public.

In determining whether disclosure would benefit the public, I have taken into account the following factors in favour of disclosure:

- The public interest in persons exercising their legal right to access information in the possession of government as recognised in the FOI Act;
- The public interest in promoting accountability and transparency in government operations;
- Whether the document relates to a matter of public debate, the disclosure of which would assist public comment or participation; and

- Whether the document relates to an agency decision that has been a topic of public interest or discussion, and disclosure of the document would better inform the public as to why or how the decision was made.

I have also taken into account the following factors which might suggest disclosure would not benefit the public:

- The limited general public debate on this issue; and
- The currency of the public interest, noting that most of the documents relate to decisions taken several months ago and in some cases a few years ago.

On balance, I consider that there is some public interest in reducing the charges for processing your request by 50 per cent. My decision on public interest goes only towards whether the charges should be waived and not to the decision of whether the documents should ultimately be disclosed.

Are there any other relevant factors supporting a waiver of charges?

In your letter you claim that the charge for processing the FOI request has been wrongly assessed but do not provide any evidence or information regarding the basis upon which you are relying on to contend that the charges were wrongly calculated

I have used the charges calculator as set out in the Schedule to the *Freedom of Information (Charges) Regulations 1982 (Cth)* (FOI Charges Regulations), which is known to be conservative in estimating time taken to undertake specific tasks, to determine the appropriate charges amount. The time I have spent in searching for and retrieving the documents are accurately estimated in my assessment of the charges. The proposed time that will be spent: consulting with external State and Territory health and law enforcement agencies and internal Commonwealth agencies; examining each document; redacting (if any) documents; preparing the documents for my decision; and drafting a decision, is accurately reflected in the estimate of charges.

I have also considered the work involved in processing your request. Considering the time and cost involved in processing your request, I consider that it is appropriate for you to bear a part of this cost.

ATTACHMENT B - REVIEW RIGHTS

If you are dissatisfied with the decision on your request for a waiver of charges, you can apply for an internal review or Australian Information Commissioner (Information Commissioner) review of the decision.

Internal review

Under section 54B of the FOI Act, you may apply in writing to the Department for an internal review of the decision in relation to waiver of charges. The internal review application must be made within 30 days of the date of this notice (or such as other date as the agency allows). Where possible please provide reasons why you consider review of my decision of waiver of charges is necessary. The internal review will be carried out by another officer of this Department within 30 days. An application for an internal review should be addressed to:

Email: FOI@health.gov.au

Mail: FOI Coordinator (MDP 350)
Department of Health
GPO Box 9848
CANBERRA ACT 2601

Information Commissioner review

Alternatively you may apply to the Information Commissioner to review my decision of waiver of charges. An application for review must be made in writing.

The Australian Information Commissioner can be contacted by:

Email: enquiries@oaic.gov.au
Phone: 1300 363 992

More about the Information Commissioner review is available on the Office of the Australian Information Commissioner (OAIC) website at <http://www.oaic.gov.au/freedom-of-information/requesting-a-review>

You may also make a complaint to the Information Commissioner about action taken by the Department in relation to your application for waiver of charges. Further information can be obtained from the OAIC website.

