



FOI15/216; 15/15688
20 November 2015

Mr Geordie Guy

By email: foi+request-1344-05d1f287@righttoknow.org.au

Dear Mr Guy,

Freedom of Information Request FOI 15/216

I refer to your request under the *Freedom of Information Act 1982* (FOI Act) for access to documents relating to the *Telecommunications (Interception and Access) Act 1979*.

The original scope of your request was as follows:

“copies of any correspondence with the department in which a body or agency not authorised under 176A of the Telecommunications (Interception and Access) Act to access telecommunications metadata, requests such authorisation either by seeking to be declared an enforcement agency under the act, or seeks authorisation external to 176A(3)”

On 16 November 2015, you were emailed a notice advising you of the department's intention to practically refuse this request under section 24 of the FOI Act. As part of the subsequent section 24AB request consultation process, you replied by email on 17 November 2015 and revised your initial request.

You were then advised by email on 20 November 2015 that the department agreed to process this request on the basis of your suggested revised scope. The scope of your request is now taken to be:

“any document which lists the names of each agency which is not authorised to access telecommunications metadata under 176A of the Telecommunications (Interception and Access) Act, which has requested such authorisation either by seeking to be declared an enforcement agency under the act, or seeking authorisation external to 176A(3)”

I am writing to advise you of my decision that you are liable to pay a charge in respect of the processing of your request. I, Daniel Abraham, Acting Assistant Secretary, am an officer authorised under section 23(1) of the FOI Act to make decisions in relation to FOI requests.

In accordance with section 29 of the FOI Act and the *Freedom of Information Charges Regulations 1982*, my preliminary assessment of the charge you are liable to pay is \$424.08.

Basis for my preliminary assessment of the charge

I have assessed the work the Attorney-General's Department would need to do to process your request and have calculated the following breakdown of charges:

| Document estimate | | |
|---|--------------|-----------------------|
| Number of relevant documents | 1 | |
| Number of relevant pages (or other size descriptor) | 4 | |
| PROCESSING CHARGES | | |
| Search and retrieval | | |
| Task | Time | Cost @ \$15/hr |
| Search and retrieval of relevant electronic and registry files | 0.00 | \$0.00 |
| Search and retrieval of relevant pages in file | 0.00 | \$0.00 |
| Preparation of schedule of documents | 0.05 | \$0.75 |
| <i>A. Search and retrieval subtotal</i> | 0.05 | \$0.75 |
| Decision making | | |
| Task | Time | Cost @ \$20/hr |
| Examination of documents | 0.33 | \$6.67 |
| Consultation with third parties | 22.50 | \$900.00 |
| Preparation of documents for release | 0.33 | \$6.67 |
| Preparation of notice of access decision | 3.00 | \$60.00 |
| <i>Decision making subtotal (before deduction of 5 hours)</i> | 26.17 | \$523.33 |
| <i>B. Decision making subtotal (after deduction of first 5 hours free)</i> | 21.17 | \$423.33 |
| ESTIMATED TOTALS AND DEPOSIT | | |
| ESTIMATED TOTAL (total of A, B and C) | | \$424.08 |
| REQUIRED DEPOSIT | | \$106.02 |

This preliminary assessment of the charges is based on the number of documents that fall within the scope of your request and an estimate of the number of pages that would need to be examined in order to make a decision on your request.

The purpose of this letter is to advise you of the estimated charges for processing your request and the amount of the deposit, based on that estimate, that you need to pay before we continue. After making a decision on your request, the department is required to calculate the actual amount payable. When we do this, the final charge may be higher than the estimated charge, however the higher amount can only be charged if the department decides to give you access to all documents without deletions and in the form requested.

Please note that the charges imposed reflect the cost of the work undertaken by the department in processing your request, and does not have a bearing on the quantity of documents that may be released to you, which may be reduced as a result of exemptions being applied.

Your right to contend the charge

Under the FOI Act, you have the right to contend that the charge:

- has been wrongly assessed, or
- should be reduced, or
- should not be imposed.

In deciding whether a charge should be reduced or not imposed, the decision maker in our agency must take into account:

- whether payment of the charge, or part of it, would cause you financial hardship
- whether giving access to the documents is in the general public interest or in the interest of a substantial section of the public
- any other relevant matter.

Payment of a deposit

As the charge exceeds \$100, a 25 per cent deposit of \$106.02 will be payable once you agree to pay the charge.

The deposit is not refundable except in some limited circumstances (for example, if the department fails to make a decision on your request within the statutory time limit), or may be refundable in part if the final charge is less than the deposit paid.

The time you have to respond and what you need to do

You have 30 days to respond in writing to this notice. We therefore expect a response from you by **Sunday 20 December 2015**. By that date, you must do one of the following things in writing:

- agree to pay the charge (this will mean that you will not be entitled to access the requested documents until the full charge of \$424.08 is paid)
- contend that the charge has been wrongly assessed, or should be reduced or not imposed and explain your reasons
- withdraw your request.

Please send your response to:

email: foi@ag.gov.au
post: Freedom of Information and Privacy Section
 Office of Corporate Counsel,
 Attorney-General's Department,
 3-5 National Circuit
 Barton, ACT 2600

If you agree to pay the charge we will provide you with an invoice for the deposit and instructions on how you can make the payment. If you do not provide us with a written response by **20 December 2015** your request will be taken to have been withdrawn.

The period for processing your request is suspended from the day that you receive this notice and resumes on either the day you pay the charge (in full or the required deposit) or the day on which the department makes a decision not to impose a charge.

Questions about this notice

If you have any questions or wish to discuss this notice with us, please contact Siobhan, the Freedom of Information case manager by phone on (02) 6141 6666 or by email foi@ag.gov.au.

More information about charges under the FOI Act is available in Fact Sheet 7 on the Office of the Australian Information Commissioner's website: <http://www.oaic.gov.au/freedom-of-information/foi-resources/freedom-of-information-fact-sheets/> and in part 4 of the Australian Information Commissioner's FOI guidelines: <http://www.oaic.gov.au/freedom-of-information/applying-the-foi-act/foi-guidelines/part-4-charges-for-providing-access>.

Yours sincerely



Daniel Abraham
Acting Assistant Secretary