



Australian Government
Department of Immigration and Border Protection

13 August 2014

FOI Request FA 14/08/00545
File Number ADF2014/27517

To: Zoe Szwarcbord

Email: foi+request-149-ec1fceaf@righttoknow.org.au

Dear Zoe Szwarcbord

Freedom of Information access request– notice that applicant is liable to pay a charge (s.29(1))

This letter refers to your request received on 11 June 2013 seeking access under the *Freedom of Information Act 1982* (the FOI Act) to the following documents:

Incident Detail Report 1-531OF6 from the Department's Compliance, Case Management, Detention and Settlement Portal. I also request any documents attached to the detailed report.

Background

On 24 June 2013 I advised that your request was one of 100 valid requests, corresponding to 85 unique incident detail reports with the removal of duplicates, received by the (then) Department of Immigration and Citizenship (the department) between 11 and 23 June 2013.

On 24 June 2013 I also advised you that, in accordance with s.24(2) of the FOI Act, the department was treating the requests for the 85 incident detail reports as a single request as the requests related to documents, the subject matter of which is substantially the same. In the notice I advised that I considered that the work involved in processing the request in its existing form met a 'practical refusal reason' under s.24AA of the FOI Act.

My notice of 24 June also advised that I was consulting with you on the scope of the request and invited you to revise the scope so that it no longer met a practical refusal reason.

You responded to the s.24AB notice on 8 July 2013, however, at the end of the consultation period, the department had not received a response from all relevant parties. As a result I wrote to you on 9 July 2013 to inform you the department considered your request had become 'Deemed withdrawn' under the operation of the FOI Act.

people our business

6 Chan Street Belconnen ACT 2617

PO Box 25 BELCONNEN ACT 2616 • Telephone 02 6264 1111 • Facsimile 02 6225 6970 • Website: www.immi.gov.au

A number of individuals who received this notice complained to the Office of the Australian Information Commissioner in August 2013. On 31 July 2014 Dr James Popple made a decision on the matter known as 'Farrell and Department of Immigration and Border Protection [2014] AICmr 74 (31 July 2014)'. In this decision Dr Popple determined that the department must process those requests where the applicant, during the s.24AB consultation period, advised the department that they did not wish to withdraw or revise the scope of their request.

Your request is considered to be affected by this decision. The department has 30 days to process your request from the date of the decision handed down by Dr Popple.

Therefore, the current due date for your request is 30 August 2014.

Purpose of this notice

I am writing to advise you of my decision that you are liable to pay a charge for processing this request. I am an officer authorised under s.23(1) of the Act to make decisions in relation to FOI requests, including the decision to impose a charge.

As provided under s.29 of the Act and the *Freedom of Information (Charges) Regulations 1982* (the Regulations), I have undertaken a preliminary assessment of the amount of charges you are liable to pay and have assessed that to be **\$59.26**.

Basis for my preliminary assessment of the charge

I have assessed the work the department would need to do to process your request and have calculated the following breakdown of charges.

Document estimate

The document within the scope of your request is an incident report with the reference number 1-531OF6. It is an incident relating to a death within an Immigration Detention Centre in November 2010. The documents within scope contain third party personal information which requires the consideration of s.47F of the FOI Act; operational information is also a consideration.

In addition, as any death within a detention centre must be the subject of a coronial enquiry, any decision under the FOI Act must take into consideration the information that may be subject to a suppression order by the Coroner.

Number of relevant documents: 8 documents

Number of relevant pages: 18 pages

An explanation of the charges follows:

Processing charges

Search and retrieval		
Task	Time (hours)	Cost @ \$15/hr
Search and retrieval of relevant electronic and registry files	0.33	\$5.00
Search and retrieval of relevant pages in file	1.50	\$22.50
Preparation of schedule of documents	0.40	\$6.00
Search and retrieval subtotal	2.23	\$33.50

Decision making		
Task	Time (hours)	Cost @ \$20/hr
Examination of documents	1.50	\$30.00
Preparation of documents for release	1.50	\$30.00
Consultation with third parties	0.00	\$0.00
Preparation of notice of access decision	3.29	\$65.76
Decision making subtotal (before deduction of 5 free hours)	6.29	\$125.76
Decision making subtotal (after deduction of 5 free hours)	1.29	\$25.76

Estimated totals and deposit	
Estimated total	\$59.26
Deposit required	\$20.00

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

The Act provides you with 30 days to respond, in writing, to this notice, which is Friday 12 September 2014.

Therefore, by **Friday 12 September 2014** you must do one of the following things:

- agree to pay the charge;
- contend that the charge has been wrongly assessed, or should be reduced or not imposed and explain your reasons; or
- withdraw your request.

In deciding whether a charge should be reduced or not imposed, s.29(5) of the Act requires me to take into account:

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

Please note that if you do not provide a written response by Friday 12 September 2014 your request will be taken to have been withdrawn (by you) under s.29(2) of the Act.

Payment

As the charge exceeds \$25, you will be required to pay a deposit of \$20 if the charge is imposed.

The deposit will be refunded if the department fails to make a decision on your request within the statutory time limit. It can be paid by cheque, money order, credit card or Electronic Funds Transfer (EFT).

Cheques and money orders should be made payable to "Collector of Public Monies DIBP" and sent to:

FOI & Privacy Policy Section
 Department of Immigration & Border Protection
 PO Box 25
 BELCONNEN ACT 2616

If you wish to pay by credit card, please fill out the attached credit card authorisation form and forward to FOI & Privacy Policy Section at the above address, or email to foi@immi.gov.au.

If you wish to pay by Electronic Funds Transfer (EFT) the department's bank account details are as follows:

Bank: CBA
BSB: 062987
Account Number: 10016044
Account Name: DIBP Official Administered Direct Credit Receipts Account

When making the transfer you will need to quote the number of your request – **FA 14/08/00545** - so that your payment can be identified by our Finance area. Failure to do so may result in payments not being identified as FOI related and could result in processing delays.

Please advise FOI when you have made the payment made by direct credit so that we can contact the Finance area and they can issue a receipt. You should also be aware that payments by direct credit are not processed in real time. There is at least a one day delay between somebody paying money into the department's account and notification of the payment via our bank account statement.

Processing period suspended

The period for processing your request is suspended from the day that you are deemed to have been 'notified' of the charge and resumes on:

- the day you indicate that you 'agree' to pay the charge or
- the day on which this agency makes a decision not to impose a charge.

You may indicate your agreement to pay the charge by either paying the deposit or paying the charge in full.

Contacting the FOI Section

If you wish to discuss this matter, I can be contacted using the details provided below.

Yours sincerely



Linda Rossiter
Authorised decision maker
FOI & Privacy Policy Section
Parliamentary and Executive Coordination Branch
Department of Immigration and Border Protection
Email foi@immi.gov.au