



27 April 2016

Mr James Smith
Right to Know

Our reference: LEX 18674

By email:
foi+request-1787-0dca66a2@righttoknow.org.au

Dear Mr Smith

Your Freedom of Information Request – Acknowledgement and Assessment of Charges

1. I refer to your request dated 31 March 2016 and received by the Department of Human Services (the **department**) on the same date, for access under the *Freedom of Information Act 1982* (the **FOI Act**) to the following:

'I request any relevant document(s) which summarise misconduct by DHS staff. In particular, matters concerning unauthorised access to DHS client records and misuse of Commonwealth resources.

I would like to see the broad spectrum of offences committed, and what the resulting consequences were for staff generally, in addition to the types of offences, and the number of occurrences of each offence.

If such a document exists which covers any, or all, of these matters for a recent, full financial-year period (eg, 2014-15), that will be sufficient for my purposes.'

2. On 15 April 2016 the department acknowledged your request (LEX 18363) and provided you with links to publicly available information.

New FOI Request

3. You provided a response on the same date and made a further request for information. The department proposes to treat your further additional request as a new FOI request under the FOI Act for:

'I refer to Table A in HS107. In that table, you broadly summarise the offences by each element of the APS Code of Conduct.

Is it possible to get a breakdown of the following breaches. I would like to see which kinds of behaviours led to the breach. A short paragraph, written in general terms, would be sufficient for my purposes:

(s. 13(8)) An APS employee must use Commonwealth resources in a proper manner and for a proper purpose. (7 breaches)

(s. 13(10)) An APS employee must not improperly use inside information or the employee's duties, status, power or authority:

(a) to gain, or seek to gain, a benefit or an advantage for the employee or any other person; or

(b) to cause, or seek to cause, detriment to the employee's Agency, the Commonwealth or any other person. (16 breaches)'

4. As your response was received on 15 April 2016, the 30 day statutory period for processing your request commenced from the day after that date and you should therefore expect a decision from us by 16 May 2016.
5. Please note that that section 11 of the FOI Act provides a right to obtain access to documents, unless otherwise exempt, rather than a right to information or a right to have certain questions responded to.
6. However, in this case, the relevant business area has confirmed that, whilst they do not possess an existing document that contains the requested information, they are able to search and collate relevant case history data in order to produce a discrete document under section 17 of the FOI Act.

Preliminary Assessment of the Charge

7. In accordance with section 29 of the FOI Act, I have decided that you are liable to pay a charge for the processing of your new request. My preliminary assessment of that charge is \$45 calculated as follows:

Search and retrieval time: 3 hours, at \$15.00 per hour:	\$ 45
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TOTAL	\$ 45
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8. As the decision-making time does not exceed 5 hours, we have not been included any charges for this component in the above estimate.
9. The department proposed to create a document for the purposes of your new request pursuant to section 17(1) of the FOI Act. The above estimate reflects the time taken to extract the relevant data in order to provide you with the information you have requested under the FOI Act.

Required Action

10. If you would like the department to continue processing your request, you must notify the department in writing within 30 days of receiving this notice that you:
 - a) agree to pay the charge;
 - b) wish to contend that the charge:
 - i. has been wrongly assessed; or
 - ii. should be reduced or not imposed; or
 - iii. both
 - c) withdraw the request for access.
11. If you do not provide a written response in accordance with one of Options A, B or C above within 30 days of receiving this notice, your request will be taken to have been withdrawn under section 29(2) of the FOI Act.

12. Alternatively you may wish to refine the scope of your FOI request. If you would like to discuss this please contact me for assistance.

13. Further information on options A, B and C is set out below.

Option A - pay the charge

14. As the charge exceeds \$25, you are required to pay a deposit of \$11.25 within 30 days of receiving this notice. You may, of course, elect to pay the charge in full at this point.

15. The amount due should be paid by cheque or money order made out to the Collector of Public Monies. Please quote the reference number FOI LEX 18674 with your payment.

16. Should you elect to pay the charge please email FOI.Legal.Team@Humanservices.gov.au once you have posted your cheque or money order to advise us of your payment.

Option B - seek reduction or non-imposition of the charge

17. You may contend that the charge has been wrongly assessed, or should be reduced or not imposed. Section 29(5) of the FOI Act provides that, in deciding whether to reduce or not to impose a charge, the decision-maker must take into account any relevant reasons, including whether payment of the charge, or part of it, would cause your organisation financial hardship, and whether the giving of access to the documents is in the general public interest or in the interest of a substantial section of the public.

18. If you wish to contend that the charge has been wrongly assessed or should be reduced or not imposed, please set out your reasons and the evidence in support of your reasons as clearly as possible. If you believe that payment of the charge would cause your organisation financial hardship, please provide sufficient details of your financial circumstances to enable the decision-maker to make a well-informed decision in this regard.

Option C - withdraw your request

19. If you wish to withdraw your request you may do so in writing.

Time limits for processing your request

20. Section 31 of the FOI Act provides that where a notice is sent to an applicant regarding the payment of a charge in respect of a request, the time limit for processing the request is suspended from the date the notice is received until either:

- (a) the day following payment of the charge (in full or the required deposit); or
- (b) if applicable, the day following the notification to the applicant of a decision not to impose the charge.

Address for correspondence

21. Please send all correspondence regarding your FOI request to me at the following address:

Freedom of Information team

Department of Human Services
PO Box 7820
CANBERRA ACT 2610

Or by email to FOI.Legal.Team@Humanservices.gov.au.

22. Should you have any enquiries concerning this matter, please contact me.

Finalisation of LEX 18363

23. For the sake of completeness, we assume that you wish to withdraw your previous FOI request (LEX18363). Unless we hear otherwise from you, we will treat this matter as finalised and take no further action in relation to your previous request.

Publication of information in the FOI disclosure log

24. Information released under the FOI Act may be published in a disclosure log on the department's website. Section 11C of the FOI Act requires this publication, subject to certain exceptions, including where publication of personal, business, professional or commercial information would be unreasonable.

25. Should you have any enquiries concerning this matter, please contact me.

Yours sincerely

FOI Delegate
Freedom of Information Team
FOI and Litigation Branch | Legal Services Division
Department of Human Services