



ASIC

Australian Securities & Investments Commission

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16 May 2016

Mr Ben Fairless

By email: foi+request-1885-f1256bc6@righttoknow.org.au

Dear Sir

Freedom of Information Application - Notification of Liability for Processing Charges under Section 29 of the Act

I refer to your request under the *Freedom of Information Act 1982* (FOI Act) of 21 April 2016. Your request seeks access to the following documents:

All documents related to the FOI File for the FOI request reference "SPEAR 09-20044/FOI Request" including, but not limited to:

- a copy of correspondence between the original decision maker and the affected 3rd party
- a copy of the correspondence between the Internal Review decision maker and the affected 3rd party
- a copy of correspondence between ASIC and the OAIC
- internal correspondence between the FOI Team and the FOI Decision Maker.

I note that you have excluded the following from your request:

- personally identifiable information of members of the public (including contact numbers and email address; and
- copies of documents already provided to you on the Right to Know Website in relation to the request.

Although not stated as an exclusion, I have also assumed that you do not seek access to further copies of correspondence sent by you to ASIC.

In accordance with section 29 of the FOI Act you are liable to pay a charge for the processing of your request. The preliminary assessment of that charge is as follows:

Decision making time:	10 hours* x \$20.00	\$200.00
Search and retrieval	Minimal - no charge	NIL
Minus	5 hours** x \$20.00	\$100.00
Total:		\$100.00

* Includes time spent consulting third parties, examining documents and third party submissions, preparing a decision and schedule of documents and applying redactions.

** The Freedom of Information (Charges) Regulations 1982, as amended on 1 November 2010, provide that the first 5 hours of decision making time is free.

The charge may be paid in full, or you may pay a deposit of 25% of the total charge. In accordance with Regulation 11 of the Freedom of Information (Charges) Regulations 1982 access to the documents will only be provided upon receipt of the total charges due.

This charge assessment is a preliminary assessment of the charges arising in respect to processing the request. In some instances when the processing of the request is complete there may be some variation in the charges payable to those advised in this preliminary assessment. If you pay the full amount advised above prior to the decision about access and the final assessment of the amount of the charge is

1. less than the amount you have paid, you will be entitled to a refund where you have paid too much;
2. greater than the amount you have paid, you may be required under certain circumstances to pay an additional amount if the final assessment is more than the amount already paid. It is to be noted that no higher amount than that advised in the preliminary assessment can be imposed if the decision is to refuse your request for access to the document/s sought. A higher amount can be imposed if access is granted wholly or in part.

Under the FOI Act you may challenge the above assessment on the basis that it was wrongly assessed, or you may wish to submit that it should be reduced or not imposed. In deciding whether to vary the charges I am required to take into account whether the imposition of the charge will cause you (or the person on whose behalf you are making this application) financial hardship and whether, the giving of access to the document/s in question is in the general public interest or in the interest of a substantial section of the public. Your submission should address these issues and any other factor you wish to bring to my attention which may assist me in making my decision in this regard.

It is important that within 30 days of receipt of this notice you:

1. pay the charge or deposit; OR

2. make a submission to me in writing stating that the charge has been wrongly assessed, or should be reduced, or should not be imposed, and setting out the reasons/grounds for your submission (addressing the issues mentioned above);

OR

3. advise me in writing that you wish to withdraw your request.

If I do not receive the required deposit or payment for the total charge, or a submission from you within 30 days of receipt of this notice your request will be regarded as withdrawn.

As I have advised you, an application must be processed, as a general rule, within 30 days. Please note however that in accordance with section 31 of the FOI Act the time for processing your request is suspended from the day you receive this notice, assumed to be the second day of business after the notice was posted, and will resume when any of the following occurs:

- (a) on the day after you pay the charge specified above (or part thereof by way of deposit); OR
- (b) on the day after you pay the revised amount (either in full or in part by way of deposit) where ASIC has decided to vary the amount imposed; OR
- (c) on the day after ASIC decides not to impose the charge.

Should you have any questions concerning the charges for processing your application, including the waiver of charges, please contact me on (02) 9911 2847 or email via email address Philip.Peck@asic.gov.au.

Yours faithfully



A handwritten signature in blue ink, appearing to be 'P. Peck', is written over a faint, light blue watermark of the ASIC logo and text.

Philip Peck

(Authorised Decision-maker under section 23(1) of the FOI Act)