



16 December 2016

Our reference: LEX 23376

James Smith

By email: [foi+request-2544-0ef7fdbbc@righttoknow.org.au](mailto:foi+request-2544-0ef7fdbbc@righttoknow.org.au)

Dear Mr Smith

### Freedom of Information Request - Charges

I refer to your request dated 2 November 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:

'With respect to the pay rise recently announced for SES staff, I seek all relevant documents which address compliance with the Workplace Bargaining Policy 2015.

I also seek any documentation which details any productivity or productivity-related measures linked to the SES pay offer, in addition to any documentation where approvals were sought from the person authorised to grant the payrise.'

On the 22 November 2016 you were notified that you are liable to pay a charge for the processing of your request and advised that the preliminary assessment of that charge was \$144.40. This charge was calculated as follows:

Search and retrieval time: 1.93 hours, at \$15.00 per hour:	\$29.00
Decision-making time (*after deduction of 5 hours): 5.77 hours, at \$20.00 per hour	\$115.40

<b>TOTAL</b>	<b>\$144.40</b>
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\*The FOI Act provides that the first five hours of decision-making time are free of charge and this is reflected in the calculation.

On 22 November 2016 you responded to the preliminary charge, contending that the charge of \$144.40 was wrongly assessed. You stated that in your view the decision making time of 10.77 hours is excessive, given that there were seven pages identified as within the scope of your request.

I have reconsidered the calculation of this charge and find that you are still liable to pay the charge of \$144.40 for the processing of your request.

## Preliminary Assessment

I am advised that the department has two documents with seven pages in its possession relevant to your request.

### Search and Retrieval time

- I have reduced the search and retrieval time from the initial estimate to 10 minutes (0.17 hours).

### Decision Making Time

- I have reduced the estimate time to examine pages and apply any applicable exemptions to four minutes per relevant page.
- I have considered that there will be personal information within these documents requiring consultation with approximately 120 third parties on whether they would object to their personal information being disclosed.
  - I have estimated five minutes per consultation. I am of the view that each consultation is in relation to the same type of information and I considered that the responses from third parties may be similar in nature.
- I have estimated two hours for the preparation and notification of the decision, noting that this processing time had not been included in the initial charge estimate.

My preliminary assessment of that charge is revised to \$148.50, calculated as follows:

Search and retrieval time: 0.17 hours, at \$15.00 per hour:	\$2.50
Decision-making time (*after deduction of 5 hours): 7.30 hours, at \$20.00 per hour	\$146.00
<b>TOTAL</b>	<b>\$148.50</b>

\*The FOI Act provides that the first five hours of decision-making time are free of charge and this is reflected in the calculation.

Given that the initial estimate of the processing charge was notified to you as \$144.40, I have decided that it is reasonable to leave the charge at this amount. In accordance with section 29 of the FOI Act, I have decided that you are liable to pay a charge of \$144.40 for the processing of your request.

## Required Action

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. should be reduced or not imposed; or
  - ii. both; or
- c) withdraw the request for access.

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.

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

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

### **Option A - pay the charge**

As the charge exceeds \$25, you are required to pay a deposit of \$36.00 within 30 days of receiving this notice. You may, of course, elect to pay the charge in full at this point.

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 23376 with your payment.

Should you elect to pay the charge please email [FOI.Legal.Team@humanservices.gov.au](mailto: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**

You may contend that the charge 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 you 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.

If you wish to contend that the charge 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 you 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**

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

### **Time limits for processing your request**

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**

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](mailto:FOI.LEGAL.TEAM@humanservices.gov.au)

### **Publication of information in the FOI disclosure log**

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.

### **You can ask for a review of this decision**

I have reconsidered the assessment of charge and reject your contention that this charge has been wrongly assessed. If you disagree with the decision to impose a charge, or the amount of the charge, you can ask for a review. There are two ways you can do this. You can ask for an internal review from within the department, or an external review by the Office of the Australian Information Commissioner. You do not have to pay for reviews of decisions. See **Attachment B** for more information about how arrange a review.

### **Further assistance**

If you have any questions please email [FOI.LEGAL.TEAM@humanservices.gov.au](mailto:FOI.LEGAL.TEAM@humanservices.gov.au).

Yours sincerely

Kerrie  
Authorised FOI Decision Maker  
FOI Legal Team  
FOI and Litigation Branch Legal Services Division  
Department of Human Services

## INFORMATION ON RIGHTS OF REVIEW

### ***FREEDOM OF INFORMATION ACT 1982***

#### **Asking for a full explanation of a Freedom of Information decision**

Before you ask for a formal review of an FOI decision, you can contact us to discuss your request. We will explain the decision to you. This gives you a chance to correct misunderstandings.

#### **Asking for a formal review of an Freedom of Information decision**

If you still believe a decision is incorrect, the *Freedom of Information Act 1982* (FOI Act) gives you the right to apply for a review of the decision. Under sections 54 and 54L of the FOI Act, you can apply for a review of an FOI decision by:

1. an Internal Review Officer in the Department of Human Services (the department); and/or
2. the Australian Information Commissioner.

**Note 1:** There are no fees for these reviews.

#### **Applying for an internal review by an Internal Review Officer**

If you apply for internal review, a different decision maker to the departmental delegate who made the original decision will carry out the review. The Internal Review Officer will consider all aspects of the original decision and decide whether it should change. An application for internal review must be:

- made in writing
- made within 30 days of receiving this letter
- sent to the address at the top of the first page of this letter.

**Note 2:** You do not need to fill in a form. However, it is a good idea to set out any relevant submissions you would like the Internal Review Officer to further consider, and your reasons for disagreeing with the decision.

#### **Applying for external review by the Australian Information Commissioner**

If you do not agree with the original decision or the internal review decision, you can ask the Australian Information Commissioner to review the decision.

If you do not receive a decision from an Internal Review Officer in the department within 30 days of applying, you can ask the Australian Information Commissioner for a review of the original FOI decision.

You will have 60 days to apply in writing for a review by the Australian Information Commissioner.