



20 March 2017

Our reference: LEX 25282

Mr Justin Warren

By email: foi+request-2952-748c3bc6@righttoknow.org.au

Dear Mr Warren

Freedom of Information Request – Reconsideration of Charges

I refer to your revised request dated 6 February 2017 and received by the Department of Human Services (the **department**) on the same day, for access under the *Freedom of Information Act 1982* (the **FOI Act**) to the following:

- ' - The business case document(s) for the Pay As You Go (PAYG) data matching initiative that is the subject of Question on Notice HS 15 from the Senate Community Affairs Legislation Committee Budget Estimates hearing on 3 June 2015.
http://www.aph.gov.au/Parliamentary_Business/Senate_Estimates/clacctte/estimates/bud1516/DHS/index
- Documents that describe the algorithm or process used to perform the data matching that identified the "approximately 1,080,000" discrepancies between PAYG data and data reported by DHS customers, as referred to in the Answer to Question HS 15.
- Documents that describe the analysis process for how the value of "historical discrepancies", as described in the Answer to Question HS 15, was determined. Such documents should describe the statistical method, the sampling process used, statistics returned (standard error, mean, confidence interval, etc.), how the likely average debt value was determined, etc.
- [the final version of the Requirements Specification (or similar document)] containing the program specifications/requirements used to define how the data matching process should be implemented by programmers. Such [a document] would refer to, for example, the use of certain fields to match on such as ABN, Business Name, Customer Name, etc

Where multiple revisions of documents exist, I am only interested in the version current at the time the Department refers to in its answer to HS15'

Background

On the 16 February 2017 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 \$600.00. This charge was calculated as follows:

Search and retrieval time: 4 hours, at \$15.00 per hour:	\$60.00
Decision-making time (*after deduction of 5 hours): 27 hours, at \$20.00 per hour	\$540.00

TOTAL **\$600.00**

*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 16 February 2017 you responded to the preliminary charge notification, contending that the charge be waived on the grounds that release of the documents is in the public interest.

What I took into account

In reaching my decision I took into account:

- the department’s correspondence of 16 February 2017, notifying you of the charge;
- your correspondence of 16 February 2017, contending that the charge should not be imposed;
- documents falling within the scope of your request;
- the FOI Act;
- the *Freedom of Information (Charges) Regulations 1982* (the **Regulations**); and
- the Guidelines issued by the Australian Information Commissioner under section 93A of the FOI Act (the **Guidelines**).

Reconsideration of the Charge – Scope of Documents

I have reconsidered the preliminary charge that was notified to you. The searches of the department’s records originally identified documents which appeared to be within the scope of your request. On the basis of these searches, the FOI Team determined that you were liable to pay a charge for the processing of your request, in accordance with section 29 of the FOI Act.

In the course of reconsidering the preliminary estimate of charge, the documents originally considered were reviewed. During that review it was determined that some of the documents originally identified do not meet the scope of your request.

Accordingly, I have decided to reduce the assessment of the charge to \$510.00, calculated as follows:

Search and retrieval time: 2.4 hours, at \$15.00 per hour:	\$36.00
Decision-making time (*after deduction of 5 hours): 23.7 hours, at \$20.00 per hour	\$474.00

TOTAL **\$510.00**

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

The department has identified 13 documents, totalling 287 pages, relevant to your request.

Reconsideration of the Charge – Your submissions and other considerations

Section 29(4) of the FOI Act provides a discretion to reduce or not impose a charge. In making a decision in relation to this discretion, section 29(5) requires me to consider:

- whether payment of the charge would cause financial hardship to the applicant, and
- whether giving access to the document is in the general public interest or in the interest of a substantial section of the public.

The guidelines state, at paragraph 4.71:

‘In addition to considering those two matters, an agency or minister may consider any other relevant matter, and in particular should give genuine consideration to any contention or submission made by an applicant as to why a charge should be reduced or waived’.

My consideration of those matters is set out below.

Financial Hardship

You did not request reconsideration on the basis that the charge would cause you financial hardship. I have no evidence available to me to indicate the charge would cause you financial hardship. Accordingly, I am not satisfied the charge should be reduced or waived on this ground.

The Public Interest

You submit that the release of documents in the scope of your request is in the public interest.

In considering whether something is in the public interest for the consideration of charges, the Guidelines relevantly provide, at paragraph 4.83:

‘The ‘public interest’ is a concept of wide import that cannot be exhaustively defined... The following examples nevertheless illustrate circumstances in which the giving of access may be in the general public interest or in the interest of a substantial section of the public:

- The document relates to a matter of public debate, or a policy issue under discussion within an agency, and disclosure of the document would assist public comment on or participation in the debate or discussion.
- ...
- The document is to be used by a member of Parliament in parliamentary or public debate on an issue of public interest or general interest in the member’s electorate.’

In considering the matters you raised, including the amount of media attention and the establishment of the Senate Community Affairs References Committee inquiry, I am satisfied there is public interest in the subject matter of your request.

Nevertheless, I am not satisfied that the charge should be waived or reduced on this ground. Having reviewed the documents within scope of your request, I am not satisfied that their release will greatly inform public debate.

Given the department’s participation in the Senate Estimate hearings and the inquiry mentioned above, the subject matter of the documents you are requesting has been canvassed in the public domain. In this context, the release of the documents you are requesting would not reasonably contribute to public discussion.

Accordingly, having regard to the material available in the public domain and the content of the documents you have requested, I do not consider that the release of the documents would greatly inform public debate.

Other grounds for reduction of the charge

Subsection 29(4) of the FOI Act provides a general discretion to reduce or not to impose a charge which goes beyond matters relating to financial hardship and the public interest. In considering this general discretion, I have had regard to whether the reduced charge of \$510.00 appropriately reflects the cost of processing your request.

Having reviewed the documents within the scope of your request, I consider that the calculation of the charge fairly reflects the work in processing your request. I note that processing charges are designed to be a contribution to the cost of processing FOI requests and do not compensate the full costs associated with the processing of a request.

Conclusion

I am not persuaded that the charge should be reduced or waived on the grounds of financial hardship. In weighing your submissions, I am satisfied that there is public interest in the subject matter of your request, however I have not reduced the charge on these grounds.

I have decided to reduce the charge to \$510.00 on the grounds of the reduced number of documents within scope.

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; or
- b) withdraw the request for access.

If you do not provide a written response in accordance with one of Options A or B 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.

Further information on Options A and B is set out below.

Option A - pay the charge

As the charge exceeds \$100.00, you are required to pay a deposit of 25%, being \$127.50, 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 25282** with your payment.

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 - 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

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.

Yours sincerely

Jonathon
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.