



Australian Government
Department of Employment

Mr James Smith

By email: foi+request-3342-fdb6dca1@righttoknow.org.au

Dear Mr Smith

I refer to your request, dated 4 April 2017, to the Department of Employment (the Department) for access under the *Freedom of Information Act 1982* (Cth) (FOI Act) to:

- 1. All documents sent to all employees which explain what information about them was passed onto the ballot provider for each ballot.*
- 2. Any documents sent to the relevant decision maker(s) who approved the use of the data that was used in the ballots.*
- 3. Any documents which explain the rationale for obtaining breakdowns of votes*
- 4. Any documents which mention benefits to the department or to the bargaining process in obtaining a breakdown of votes.*
- 5. Any documents between the departmental bargaining team and the departmental Executive which discuss breakdowns of votes and suggest how that information should be used or otherwise taken into consideration by the department.*
- 6. Any documents from the APSC that mention what information about employees can or should be used in ballots.*

Third Party Consultation

Your request covers documents which contain information about the business affairs of a third party organisation.

The Department believes that this third party may wish to make submissions about the release of the documents and contend that certain information is exempt under the FOI Act. Accordingly, the Department is required to consult with this third party before making its decision on access to the documents.

To allow for consultation with this third party, the FOI Act extends the standard 30-day statutory time period by a further 30 days. This will give the Department 60 days in which to notify you of its decision on access to the documents.

Preliminary Assessment of the Charge

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 request. My preliminary assessment of the total cost for processing the request is calculated as follows:

Search and retrieval time: 5 hours, at \$15.00 per hour:	75.00
Decision-making time: 8.90 hours minus the first 5 hours* at \$20.00 per hour:	77.00
TOTAL	\$152.00

*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 identified 7 documents (approx. 58 pages) relevant to your request. I am advised that the time taken to search for and retrieve that material was 5 hours. Given the quite specific nature of your request, considerable time was required to collate the documents and to determine whether the documents fell within any of the items of your request.

We estimate that it will take an additional 8.90 hours to examine the documents, undertake any necessary consultations and prepare the decision on access and any documents for release.

Please note that the charge estimated by the Department is based on the work involved in processing your request and is not a fee for access to documents.

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, and pay the charge (in full or the required deposit);
- 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.

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 the FOI Act.

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

Option A – pay the charge

As the charge exceeds \$100, you are required to pay a deposit of **\$38.00**, which is 25% of the total amount, within 30 days of receiving this notice. Alternatively you may 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 Relevant Monies—Department of Employment. Please contact me for details of how to pay the charge by credit card.

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

If you believe that the charge has been wrongly assessed, or should be reduced or not imposed, please set out your reasons and any evidence that the giving of access to the documents is in the general public interest or in the interest of a substantial section of the public. These factors will be taken into account by the Department's decision-maker when determining whether to reduce or not impose the charge.

If you believe that payment of the charge, or part of it, 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

The time period for processing your request is suspended from the day that you receive this notice and resumes on either the day you pay the charge (either in full or the required deposit) or the day on which the Department makes a decision not to impose a charge.

Address for correspondence

Please send all correspondence regarding your FOI request to me by email to foi@employment.gov.au or to the following address:

Information Law Team
Information Law, Practice Management and Corporate Advising Branch
LOC: C12MT1-LEGAL
GPO Box 9880
CANBERRA ACT 2601

Should you have any queries concerning this matter, please contact me via email at foi@employment.gov.au.

Yours sincerely



James Ramsay
Government Lawyer
Information Law Team
Information Law, Practice Management and Corporate Advising Branch
24 April 2017

Internal Review

Section 54 of the FOI Act gives you the right to apply for an internal review of this decision. The review will be conducted by a different person to the person who made the original decision.

If you wish to seek an internal review of the decision you must apply for the review, in writing, within 30 days of receipt of this letter.

No particular form is required for an application for internal review, but to assist the decision-maker you should clearly outline the grounds upon which you consider the decision should be reviewed. Applications for internal review can be lodged in one of the following ways:

Post: The FOI Coordinator
 Information Law Team
 Information Law, Practice Management and Corporate Advising Branch
 LOC: C12MT1 - LEGAL
 GPO BOX 9880
 CANBERRA ACT 2601
Email: foi@employment.gov.au

External Review by the Australian Information Commissioner

Section 54L of the FOI Act gives you the right to apply directly to the Australian Information Commissioner (AIC) to seek a review of this decision.

If you wish to have the decision reviewed by the AIC you must apply for the review, in writing or by using the online merits review form available on the AIC's website at www.oaic.gov.au, within 60 days of receipt of this letter. To assist the AIC your application should include a copy of this decision and your contact details. You should also clearly set out why you are objecting to the decision.

You can also complain to the AIC or the Commonwealth Ombudsman about how an agency handled an FOI request, or other actions the agency took under the FOI Act.

We are advised by the AIC that applications for review or complaint must be lodged with the AIC in one of the following ways:

Online: www.oaic.gov.au
Post: GPO Box 5218 Sydney NSW 2001
Fax: +61 2 9284 9666
Email: enquiries@oaic.gov.au

For general enquiries, please call 1300 363 992 or +61 2 9284 9749 for international.