



Ref no. FOI 18-1

27 July 2017

Phillip Sweeney

By email: foi+request-3727-e5b94220@righttoknow.org.au

Dear Mr Sweeney

**NOTICE UNDER SECTION 29 OF THE FREEDOM OF INFORMATION ACT 1982 (CTH)
(FOI ACT)**

I refer to your email dated 17 July 2017 (your **FOI request**) which was received by the Australian Prudential Regulation Authority (**APRA**) on that date.

In your FOI request you seek the following information:

"This Freedom of Information request is to determine if APRA currently has possession of a copy of a Trust Deed for an occupational pension scheme dated 23 December 1913 that is recited in the Elder Smith & Co Limited Provident Funds Act 1963 (SA).

The Deed was made between Elder Smith & Co Ltd and three natural person trustees..."

I have interpreted your FOI request as a request for the 1913 Trust Deed. APRA acknowledges receipt of your FOI request.

Notice of charge in respect of processing the FOI Request

I am writing to advise you of my decision under regulation 3 of the *Freedom of Information (Charges) Regulations 1982* (Cth) (the **Regulations**) that you are liable to pay a charge in respect of processing your FOI request.

I note that you have now made seven requests for the 1913 Trust Deed or a directly related document. Further, you have made numerous request for documents of a similar nature. Should you make any further requests for the same or related documents, APRA may apply to the Information Commissioner under section 89K of the FOI Act for a declaration that you are a vexatious applicant, on the grounds that your repeated requests for the same document amount to an abuse of process.

In accordance with section 29 of the FOI Act and the Regulations, my preliminary assessment of the charge you are liable to pay is \$15.00. The following table details the basis of that assessment:

Basis for my preliminary assessment of the charge	Time	Cost
Search and retrieval time @ \$15.00 per hour	1 hours	\$15.00
TOTAL	1 hours	\$15.00

Your right to contend the charge

Under the FOI Act, you have the right to contend that the charge:

- has been wrongly assessed; or
- should be reduced; or
- should not be imposed.

If you contend that the charge has been wrongfully assessed, or should be reduced or not imposed, you should give full reasons for so contending. In deciding whether a charge should be reduced or not imposed, the decision maker in APRA must take into account:

- whether payment of the charge, or part of it, would cause you financial hardship;
- whether giving access to the document is in the general public interest or in the interest of a substantial section of the public; and
- any other relevant matter.

The time you have to respond and what you need to do

You are required to notify APRA in writing within 30 days of receipt of this letter if you:

- agree to pay the charge (this will mean that you will not be entitled to access the requested documents until the full charge); or
- contend that the charge has been wrongly assessed, or should be reduced or not imposed and explain your reasons; or
- withdraw your FOI request.

We therefore expect a response from you by 28 August 2017. If you do not provide us with a written response by this date your FOI request will be taken to have been withdrawn.

If any documents are located, the decision whether to release those documents would only be made by APRA after consultation with any affected parties and on the basis of any applicable exemptions under the FOI Act, such as documents to which statutory secrecy provisions apply. Accordingly, it is possible that notwithstanding your payment of the charge, APRA may fail to locate any documents, decide not to release any documents, or decide to release some of the relevant documents retrieved and examined.

Time period for processing the FOI request

In accordance with section 31 of the FOI Act, the time period for processing your FOI request is suspended from the day that you receive this notice and resumes on either the day that the charge (in full or the required deposit) is received by APRA or the day on which APRA makes a decision not to impose a charge.

Questions about this notice

Please contact me with any questions in respect of this notice or this FOI request.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Ben Carruthers', with a stylized flourish at the end.

Ben Carruthers
FOI Officer
foi@apra.gov.au

