



Charges notice made under the *Freedom of Information Act 1982*

Decision to impose a charge and preliminary assessment of charge of Judith Zielke, Executive Director, Surface Transport Policy

Applicant: Mr Greg Bean
Decision date: October 2013
FOI reference number: 14-32
Documents: Details relating to The Motor Vehicles Standards Act

Contents

Summary	2
Authority to make this decision	2
Background	2
Your liability to pay a charge	3
Preliminary assessment of the amount of the charge	3
Deposit	3
If you disagree with the Department's decision to impose a charge or the preliminary assessment of charge.....	3
What you must do now	4
Your rights of review	4
<i>Internal Review</i>	4
<i>Information Commissioner Review</i>	5
Contacts	5
Schedule 1: Preliminary charges estimate made under the <i>Freedom of Information Act 1982</i>	6

Summary

1. I have made a decision to impose charges in the amount of \$860.73.

Authority to make this decision

2. I, Judith Zielke, Executive Director, Surface Transport Policy, am an officer authorised by the Secretary of the Department of Infrastructure and Regional Development (the Department) to make decisions about charges applying to requests for access to documents in the possession of the Department in accordance with Section 23(1) of the *Freedom of Information Act 1982* (the FOI Act).

Background

3. On 16 September 2013, you made a request for access to documents in the possession of the Department. Your request sought access to:

"...copies of all correspondence, including emails, that occurred between me and staff of the Department, related conversations between staff within the Department regarding my request, related conversations between the Minister of the Department and his staff including the Parliamentary Secretary for the Department and her staff regarding my request, and between any of these and my Federal Member of Parliament, Bronwyn Bishop.

The issue I was pursuing has not been resolved to my satisfaction, nor explained with any valid comprehensive and cohesive details. Some, but not all of these conversations, will be tied to a request reference number 2011-123286 issued by the Department.

While I have copies of my email communications and responses to me, I do not have and was not privy to the internal communications between these other involved parties and therefore do not understand the conclusions they have arrived at or why they decided to take no further action without any acknowledgement from me that I had been satisfied.

The timeframe of this communication was between May 2011 and March 2012.

As the response was inadequate, and I have no means to understand how it was arrived at, I request the details of conversations between these other involved participants as I may pursue this matter to a logical conclusion supported by fact rather than opinion and a dismissive attitude."

4. On the same date you provided further clarification about the scope of your request as follows:

"My original request, for which this FOI request is now seeking that I be provided with all related communication, was about the price gouging by foreign corporations that is only possible due to the very curious restrictions that exist in the Motor Vehicle Transport Act.

My communications, directly with the Department or through my Federal Member, Bronwyn Bishop, were with a number of Departmental staff and were, for my part, all sent by me and responded to from the Department at my [greg at acaze dot com] email address. I am uncertain what email address B Bishop used to communicate with the Department, or who she communicated with.

I am also uncertain what conversations took place internally within the Department as I was not copied into these communications.

It is copies of this full set of communications I seek to have provided to me.

I expect that the communications would have referenced the 2011-123286 request ID, or that a search of communications within the Departments email server for emails received from me, sent to me, or from and to B. Bishop would provide excellent start and end points to communications that likely included many internal staff, the Minister, A Albanese, the Parliamentary Secretary, C. King, and staff within their offices."

Your liability to pay a charge

5. In accordance with Section 29(1) of the FOI Act, I have decided that you are liable to pay a charge in relation to your request.

Preliminary assessment of the amount of the charge

6. In accordance with Section 29(1)(b) of the FOI Act, the Department has undertaken a preliminary assessment of the amount of the charge you are liable to pay in relation to your FOI request. Accordingly, you are liable to pay \$860.73. A breakdown of this charge, as well as the basis on which the assessment is made, is provided in detail at Schedule 1.
7. In accordance with regulation 10(1), the charges may be reassessed upon finalisation of the request. While reassessing the outstanding balance, should the Department have over-estimated the preliminary charges, an appropriately reduced balance will be sought from you prior to providing you with documents relevant to your request.

Deposit

8. As the charge is more than \$100.00, you will need to pay a deposit of \$215.18 (which is 25% of the total charges applying to your request) before further action can be taken on your request. This amount is set in Regulation 12(2)(b) of the Freedom of Information (Charges) Regulations 1982.
9. The deposit is not refundable except in some limited circumstances (for example, if the Department fails to make a decision on your request within the statutory time limit), or may be refundable in part if the final charge is less than the deposit paid.

If you disagree with the Department's decision to impose a charge or the preliminary assessment of charges

10. You may contend that the charge has been wrongly assessed, or should be reduced or not imposed.
11. In deciding whether to reduce or not to impose a charge, the decision-maker must consider any relevant reasons, including whether the 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. In doing so, it is necessary that you provide evidence of financial hardship, or specify how the public would benefit from disclosure:

What you must do now

12. In accordance with Section 29(1)(f) of the FOI Act, you must, within the period of 30 days from the date of this notice, notify the Department, in writing:
 - (i) of your agreement or pay the charge; or
 - (ii) of your contention that the charge has been wrongly assessed, or should be reduced or not imposed, or both (and provide reasons); or
 - (iii) that you withdraw your request for access to the documents concerned.
13. Payment can be made by credit card or cheque. To make payment by credit card, please complete and forward the enclosed credit card payment authority form to the following address or the facsimile number on the credit card payment authority form.

Post: FOI Coordinator
Department of Infrastructure and Regional Development
GPO Box 594
Canberra ACT 2601
Fax: +61 2 6275 1347
Email: FOI@infrastructure.gov.au

14. Under Section 31 of the FOI Act, the time limit for processing your request is suspended from the day that you receive this notice. It will resume on either the day you pay the charge (in full or the required deposit) or the day the Department makes a decision not to impose a charge.
15. If you fail to give the Department such notice within 30 days from the date of this notice, your request for access to the document will be taken to have been withdrawn.

Your rights of review

16. If you disagree with the Department's decision to impose charges in relation to your FOI request, you can ask for the decision to be reviewed. There are two ways you can ask for review of a decision: internal review by the Department, and external review by the Office of the Australian Information Commissioner (OAIC).

Internal Review

17. You can ask the Department to review its decision to impose a charge and/or the preliminary assessment of charge. There is no charge for internal review. You must apply within 30 days of being notified of the decision, unless the Department extends the application time. You should contact the Department if you wish to seek an extension. The Department must make a review decision within 30 days. If it does not do so, its original decision is considered to be affirmed. The review will be carried out by a different departmental officer, usually someone at a more senior level. You must apply in writing and you can lodge your application in one of the following ways:

Post: FOI Coordinator
Department of Infrastructure and Regional Development
GPO Box 594
Canberra ACT 2601
Fax: +61 2 6275 1347
Email: FOI@infrastructure.gov.au

Information Commissioner review

18. You can ask the OAIC to review the Department's decision to impose a charge and/or the preliminary assessment of charge. The Information Commissioner is an independent office holder who can review the decisions of agencies and ministers under the FOI Act. The Information Commissioner also investigates complaints about agency actions under the FOI Act. However, if you are complaining that the Department's decision is wrong, it will be treated as an application for a review. You do not need to seek an internal review from the Department before seeking an internal review from the Information Commissioner. However, going through the Department's internal review process gives the Department the opportunity to reconsider its initial decision, and your needs may be met more quickly without undergoing an external review process. The Information Commissioner's review is free. You must apply to the Information Commissioner within 60 days of being given notice of the decision. You can ask the Information Commissioner for an extension of time to apply, and this may be granted if the Information Commissioner considers it is reasonable in the circumstances.

You must apply in writing and you can lodge your application in one of the following ways:

Online: www.oaic.gov.au

Post: Office of the Australian Information Commissioner

GPO Box 2999, Canberra ACT 2601

Facsimile: (02) 9284 9666

Email: enquiries@oaic.gov.au

In person: Level 3, 25 National Circuit, Forrest, ACT; or at

Level 8, Piccadilly Tower, 133 Castlereagh Street, Sydney, NSW

More information about your review rights under the FOI Act is available in Fact Sheet 12 published by the Office of the Australian Information Commissioner: <http://oaic.gov.au/freedom-of-information/foi-resources/freedom-of-information-fact-sheets/foi-factsheet-12-your-review-rights>

Contacts

19. If you wish to discuss this decision, please do not hesitate to contact the Department's FOI coordinator on (02) 6274 6495 or via email at foi@infrastructure.gov.au.



Judith Zielke

Executive Director, Surface Transport Policy

11 October 2013

**Preliminary charges estimate made under the *Freedom of Information Act 1982*****Detailed calculation of Taryn Powick, Freedom of Information Coordinator**

BASIC DATA ESTIMATE	FOI-14-32
<i>Time taken to do electronic searches, print and tag these documents (minutes)</i>	900
<i>No of relevant documents held electronically (not on registry files)</i>	47
<i>No of relevant pages in documents held electronically (not on registry files)</i>	317
<i>Number of relevant registry files</i>	0
<i>Number of relevant documents on registry files</i>	0
<i>Number of relevant pages in documents on registry files</i>	0
<i>Number of exempt pages (electronic AND on registry files)</i>	0
<i>Number of pages released with deletions (electronic AND on registry files)</i>	1
<i>Number of third parties to consult</i>	0

TASK	TIME (in hours)	COST @ \$15 per hr
<i>Search and retrieval electronic file searches, including tagging pages (actual time)</i>	15.00	\$225.00
<i>Search and retrieval of registry files @ 10 mins per file</i>	0.00	\$0.00
<i>Search files and tag relevant pages on registry files (45 mins average per file)</i>	0.00	\$0.00
<i>Preparing schedules detailing all relevant documents (1 hour per 10 documents)</i>	4.70	\$70.50
Search & Retrieval Subtotal	19.70	\$295.50
	TIME (in hours)	COST @ \$20 per hr
<i>Examine relevant pages for decision making (5 mins per relevant page).</i>	26.42	\$528.33
<i>Exempted pages (5 mins extra per page).</i>	0.00	\$0.00
<i>Pages released with deletions (10 mins extra per page)</i>	0.17	\$3.33
<i>Consult third parties (2 hours per consultation)</i>	0.00	\$0.00
<i>Preparation and notification of decision (4 hours per 250 relevant pages).</i>	5.09	\$101.76
Subtotal	31.67	633.43
Free decision making time @\$20.00 an hour (capped at 5 hours)	5.00	(\$100.00)
Examine, Consult & Preparation Subtotal	31.67	\$533.43
	PAGES	COST
<i>Photocopies of estimated released docs (incl those with deletions) @ 10c ea</i>	318	\$31.80
<i>Packaging and postage (actual cost)</i>	N/A	
Photocopying & Postage Subtotal		\$31.80

ESTIMATED TOTALS

NUMBER OF RELEASED PAGES	317
TIME (in hours)	51.37
TOTAL	\$860.73
DEPOSIT REQUIRED	\$215.18