



Australian Government
Australian Public Service Commission

J Motbey

By email: foi+request-4109-dcf565a2@righttoknow.org.au

Our reference: C17/1534

Dear Applicant,

Freedom of Information Request

1. I refer to your email correspondence dated 12 August 2017, as received by the Australian Public Service Commission (the **Commission**), requesting access under the *Freedom of Information Act 1982* (Cth) (the **FOI Act**) to the following documents:

I seek access to documents held by the APSC because those documents were sent by any SES officer at the APSC, or the Australian Public Service Commissioner, to any of the following persons, in the following periods (including where those documents were sent to the following persons because those persons were cc'd in an email):

- Eric Abetz (16 September 2015 – present)
- Tim Wilson (12 December 2014 – present)
- James Paterson (12 December 2014 – present)
- Bridget McKenzie (12 December 2014 – present)

I also seek access to any documents held by the APSC because those documents were received by any SES officer at the APSC, or the Australian Public Service Commissioner, where those documents were sent by the following persons, in the following periods (including where those documents were received by any SES officer at the APSC, or the Australian Public Service Commissioner because those officers (including the Commissioner) were cc'd in an email)):

- Tim Wilson (12 December 2014 – present)
- James Paterson (12 December 2014 – present)
- Bridget McKenzie (12 December 2014 – present)
- Eric Abetz (14 September 2015 – present)

(your FOI request)

Preliminary Assessment of the Charge

2. 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 and write to you accordingly. My preliminary assessment of that charge is \$333.75 calculated as follows:

Search, retrieval and production of document(s):	\$174.75
Decision-making time:	*\$159.00

*I note that at this time, the preliminary assessment of the charge has been calculated without knowledge as to the number of documents that may fall within the scope of the request. As such, the final determination as to applicable charges will not be possible until the search, retrieval and production of the documents has been completed, and we have considered whether additional third party consultations may be required.

3. My preliminary assessment, as outlined above, is in line with the applicable charges set down at Schedule 1 of the *Freedom of Information (Charges) Regulations 1982* (the FOI Regulations). I note that as provided for under the FOI Act, the first 5 hours of decision-making time are free of charge, which has been reflected in the above charges assessment.

Action Required

4. You must notify the department in writing within 30 days of receiving this notice that you either:
- A. Agree to pay the preliminary charge, noting that additional charges may apply for making a decision in relation to your request; or
 - B. Wish to contend that the charge has been wrongly assessed and/or should be reduced or not imposed; or
 - C. Withdraw your request.

Further information on your options are set out below.

5. If you do not provide a written response in accordance with one of the options listed 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.

Consultation regarding your Request

6. I note that you have named 4 individuals in the scope of your request. I have interpreted your request to be for correspondence between those named persons and any current or former SES employee of the Commission, or current or former Australian Public Service Commissioner between the named dates.
7. However, I require confirmation of the capacity in which you ask for documents of the named persons, such as in their personal capacity, or another, and that I have correctly identified the appropriate individuals, as follows:
- Eric Abetz, presumed to be reference to the Hon Eric Abetz, current Senator for Tasmania;

- Tim Wilson, presumed to be reference to Tim Wilson, current member for Goldstein, Victoria;
- James Paterson, presumed to be reference to James Paterson, current Senator for Victoria; and
- Bridget McKenzie, presumed to be reference to Bridget McKenzie, current Senator for Victoria.

Option A - Pay the charge

As the preliminary assessment of the charge exceeds \$25, you are required to pay a deposit of \$83.44 (being 25% of the preliminary charge) within 30 days of receiving this notice. You may elect to pay the charge in full if preferred.

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 C17/1534 with your payment.

Should you elect to pay the charge please email FOI@apsc.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 has been wrongly assessed, or 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 your organisation 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 has been wrongly assessed or 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 your organisation 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.

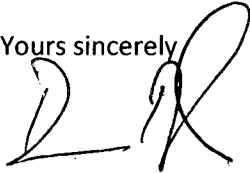
Review rights

You are entitled to seek review of this decision. Your rights are set out at **Attachment A** to this letter.

Contacts

If you require clarification of any of the matters discussed in this letter you should contact the Commission's FOI Officer by email at foi@apsc.gov.au.

Yours sincerely

A handwritten signature in black ink, appearing to be 'DR' or similar, written over the words 'Yours sincerely'.

General Counsel
Authorised FOI decision maker
8 September 2017

REVIEW RIGHTS

If you are dissatisfied with this decision, you have certain rights of review available to you.

Internal Review

Section 54 of the *Freedom of Information Act 1982* (FOI Act) gives you a 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 this decision you must apply for the review, in writing, by whichever date is the later between:

- 30 days of you receiving this notice; or
- 15 days of you receiving the documents to which you have been granted access.

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:

Email: foi@apsc.gov.au

Post: The FOI Coordinator
Australian Public Service Commission
B Block, Treasury Building,
Parkes Place West
Parkes ACT 2600

If you choose to seek an internal review, you will subsequently have a right to apply to the Australian Information Commission for review of the internal review decision if required.

Review by the Office of the Australian Information Commissioner

Section 54L of the FOI Act gives you a right to apply directly to the Australian Information Commissioner (the Information Commissioner) for review of certain decisions made under the FOI Act. If you wish to have the decision reviewed by the Information Commissioner you must apply for the review within 60 days of receiving this notice (decision).

The Information Commissioner is an independent office holder who may review decisions of agencies and Ministers under the FOI Act. More information is available on the Australian Information Commissioner's website www.oaic.gov.au.

To assist the Information Commissioner, 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 Information Commissioner about how an agency handled an FOI request, or about other actions the agency took under the FOI Act.

You can contact the Information Commissioner to request a review of a decision or lodge a complaint in one of the following ways:

Email: enquiries@oaic.gov.au

Post: GPO Box 2999
CANBERRA ACT 2601

***Please note:** On 13 May 2014, the Australian Government announced a decision to disband the Office of the Australian Information Commissioner (OAIC). However, the OAIC remains operational until further notice. Information on the OAIC public website advises that Information Commissioner Reviews will continue to be handled by the OAIC and FOI complaints will be referred to the Commonwealth Ombudsman. Please contact the OAIC on the details above if you require further information.

The Commonwealth Ombudsman

You can complain to the Commonwealth Ombudsman concerning action taken by an agency in the exercise of powers or the performance of functions under the FOI Act.

The Ombudsman will consult with the Information Commissioner before investigating a complaint about the handling of an FOI request.

A complaint to the Commonwealth Ombudsman may be made orally or in writing. No particular form is required to make a complaint to the Ombudsman, but the request should be in writing and should set out the grounds on which it is considered that the action taken in relation to the FOI request should be investigated. The Ombudsman may be contacted in one of the following ways:

Email: ombudsman@ombudsman.gov.au

Post: 1300 362 072 (local call charge)

Post: Level 5, Childers Square,
14 Childers Street
Canberra City ACT 2601