



By email: foi+request-410-92883646@righttoknow.org.au

Dear MJ

I refer to your request to the Minister for Education, which was transferred to the Department of Education (the department) on 20 September 2013, for access under the *Freedom of Information Act 1982* (FOI Act) to "...pages 22, 29, 68 & 101 of the incoming government brief provided to you [the Minister for Education]".

Third Party Consultation

Business or commercial information

Your request covers documents which contain information about the business affairs of an organisation.

Where a request is made for a document containing information about the business affairs of an organisation and it appears to the department that the organisation might reasonably wish to contend that the information is:

- exempt because it would disclose trade secrets or commercially valuable information; or
- conditionally exempt because it contains business information and giving access to the document would, on balance, be contrary to the public interest,

the department must give the organisation a reasonable opportunity to make such a submission in support of the contention.

The department is required to have regard to any submission so made before making a decision to give access to the document.

Commonwealth/State relations

Your request covers information in documents relating to State authorities.

Where consultation arrangements have been entered into between the Commonwealth and a State and it appears to the department that the State might reasonably wish to contend that the requested documents are conditionally exempt because release would affect Commonwealth-State relations, the department must not give access to the documents unless consultation has taken place.

Timing for consultation with third parties

Given that consultation with third parties is required, the statutory 30-day time limit for processing the request is extended by another 30 days. Accordingly, this will give the department 60 days within which to notify you of its decision on access to the documents.

Preliminary Assessment of the Charge

I have decided that you are liable to pay a charge for the processing of your request. My preliminary assessment of that charge is \$215, calculated as follows:

| | |
|--|-----------------|
| Search and retrieval time: one hour, at \$15.00 per hour: | 15.00 |
| Decision-making time: 15 hours minus the first 5 hours* at \$20.00 per hour: | 200.00 |
| TOTAL | \$215.00 |

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

I estimate that it will take one hour to locate and retrieve the relevant documents and an additional 15 hours to examine the documents, undertake the necessary consultations, and prepare a decision on access.

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. 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; or
- 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.

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 \$53.00, which is 25% of the total amount, 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—DEEWR. Alternatively, payment of the charge by credit card is also available. For details on how to pay by credit card please contact me.

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. 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 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.

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 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

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.

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. The FOI Act requires this publication, subject to certain exceptions, including where publication of personal, business, professional or commercial information would be unreasonable.

Address for correspondence

Please send all correspondence regarding your FOI request to me at the following address:

Freedom of Information, Privacy and People Legal Branch
Legal and Investigations Group
Department of Education
LOC: C12MT1-LEGAL
GPO Box 9880
CANBERRA ACT 2601

or by email to foi@deewr.gov.au.

Please contact me via email at foi@deewr.gov.au if you would like to discuss this matter.

Yours sincerely



Shari Beaumont
Principal Government Lawyer
Freedom of Information, Privacy and People Legal Branch
Legal and Investigations Group

15 October 2013

