



Australian Government
Australian Public Service Commission

Name Withheld

By email: foi+request-4172-b3c42854@righttoknow.org.au

Our reference: C17/2064

Dear Applicant,

Freedom of Information Request

1. I refer to your email correspondence dated 30 October 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 refer the APSC to my FOI request made of the Office of the Australian Information Commissioner here (the 'OAIC request'):

https://www.righttoknow.org.au/request/precise_salaries_paid_to_the_oai

By this application I make the same request of the APSC albeit such that every reference to 'OAIC' in the OAIC request should be read as a reference to the 'APSC' for the purposes of this request. I rely on all my submissions contained in the OAIC request, in support of this request made of the APSC under s.15 of the FOI Act.

2. As noted above, you reference a further related FOI request made by you to the Office of the Australian Information Commissioner (**OAIC**), dated 2 August 2017. Relevant extracts from the OAIC FOI request are also transcribed below.

I request documents which detail the precise salary paid to each of the Office of the Australian Information Commissioner's (OAIC's) SES officers in the following financial years - FY2014/15, FY 2015/16 and FY2016/17. That information might be included in the group certificates/end-of-year PAYG payments summaries issued by the OAIC to its SES officers, or common law contracts relating to the employment of the relevant SES officers or, any relevant determinations made under subsection 24(1) or 24(3) of the Public Service Act 1999 in respect of those relevant SES officers or, perhaps a document prepared pursuant to s.17 of the FOI Act. Such documents can be quickly and easily identified and retrieved, and will efficiently and accurately provide the information the subject of my request.

I am willing to agree to the decision maker redacting all information contained in any relevant document with the exception of the following:

- information that discloses the relevant SES officer's name;
- information that discloses that officers precise salary for the relevant financial year; and

- information that identifies what the document is (eg. a group certificate/payment summary, an employment contract or a s.23(1) Determination) and the period that it covers.

I am willing to further narrow the scope of my request by limiting it to officers employed by the OAIC who, at the time of my application, were categorised as SES officers, meaning that:

- OAIC staff who were once SES officers at the OAIC, but weren't categorised as such at the time of this application; and
- the documents the subject of my request that pertain to SES officers who are no longer employed by the OAIC;
are discounted from the scope of my application.

(your FOI request)

Preliminary Assessment of the Charge

3. 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 \$235.00, calculated as follows:

Search, retrieval and production of document(s):	\$120.00
Decision-making time:	\$115.00

4. 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. This has been reflected in the above charges assessment.
5. In your FOI request you advised that you are amenable to receipt of the information sought by release of any of a number of suggested documents, including by way of a written document produced in accordance with section 17 of the FOI Act.
6. Regulation 8 of the FOI Regulations provides that where access to a document to which the FOI request relates may be provided in any of 2 or more forms, the amount of the charge shall be no greater than the applicant would have been liable to pay in response of the request and the provision of access to the document if access had been given in some other form.
7. In determining the charges applicable to provision of access in another form, I have considered the availability of, and sensitivities relevant to the alternative forms, namely provision of payment summaries of current SES employees for the financial years 2014/15, 2015/16 and 2016/17, or contracts or relevant determinations under section 24 of the *Public Service Act 1999* (Cth) of current SES employees for the same period.
8. I have concluded that additional charges would apply in the event that access were given in the forms mentioned at paragraph 7 above, as review of a greater number of documents would be factored into the decision-making process. Such additional documents would need to be considered and, where appropriate, redactions under the exemptions provided in the FOI Act would need to be applied. Further, the drafting of further reasons in relation to any considered exemptions and the relevant public interest factors would additionally increase the applicable charges.

Action Required

9. 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.

10. 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.

Option A - Pay the charge

11. As the preliminary assessment of the charge exceeds \$25.00, you are required to pay a deposit of \$58.75 (being 25% of the preliminary charge) within 30 days of receiving this notice. You may elect to pay the charge in full if preferred.
12. 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 C17/2064 with your payment. Details for alternative payment methods are available on request.
13. 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. You will be notified of the final determination of applicable charges on release of the Commission's decision in this matter.

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

14. You may contend that the charge has been wrongly assessed, or that the charge 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.
15. If you wish to contend that the charge has been wrongly assessed, or that the charge should be reduced or not imposed, please set out your reasons and the evidence in support of your reasons as clearly as possible.
16. 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

17. If you wish to withdraw your request you may do so in writing.

Time limits for processing your request

18. 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.

Contacts

19. 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 the initials 'DR' followed by a flourish.

Acting General Counsel
Authorised FOI decision maker
15 November 2017