



Australian Government

Department of the Prime Minister and Cabinet

ONE NATIONAL CIRCUIT
BARTON

FOI

FOI/2018/098

APS

foi+request-4599-60eeb28a@righttoknow.org.au

Dear APS

I refer to your email of 26 May 2018 in which you made a request to the Department of the Prime Minister and Cabinet (the Department) under the *Freedom of Information Act 1982* (the FOI Act) in the following terms:

Under the FOI Act, I seek access to email correspondence, falling between the period of 30/10/17 to the date of this application:

- i) between Ms Stephanie Foster and Mr John Lloyd (including email documents sent by Ms Foster to Mr Lloyd and email documents sent by Mr Lloyd to Ms Foster); and
- ii) between Ms Stephanie Foster and Ms Jenet Connell (including email documents sent by Ms Foster to Ms Connell and email documents sent by Ms Connell to Ms Foster).

Documents falling within the scope of my request can be quickly identified and retrieved by searching all items (including archived items) in Ms Foster's email account profile according to persons sent to, and received from.

I am willing to agree to DPMC redacting, from any relevant document, the personal information of any person mentioned in that document, except where that person was, at the relevant time: i) a public servant; or ii) a member of parliament. Noting paragraphs 6.153-6.154 of the FOI guidelines, this refinement of my request should negate any need for DPMC to consult with any third parties under s.27A of the FOI Act.

By email dated 5 June 2018, the Department sought clarification of your request as follows:

- You specified the time frame for your request as 'between the period of 30/10/17 to the date of this application'. Ms Stephanie Foster commenced as Deputy Secretary in the Department of the Prime Minister and Cabinet on 11 December 2017. It would be helpful if you would confirm that the time frame for your FOI request is from 11 December 2017 to 26 May 2018.

- It would also be helpful if you would confirm that you seek email correspondence relating to the “allegation and potential investigation” referred to in your email of 26 May 2018.

By email dated 5 June 2018, you responded to the request for clarification in the following terms:

I'm willing to narrow the relevant timeframe to the earlier of:

- i) the day Ms Foster's DPMC email account was activated; or
- ii) 11 December 2017

to 26 May 2018.

In relation to your second request - no, I'm not willing to confine my application in the manner preferred by DPMC. If Ms Foster has complied with her legal and ethical obligations in her email correspondence with Ms Connell and Mr Lloyd, Ms Foster has nothing to fear.

The authorised decision-maker for your request is Mr Peter Rush, Assistant Secretary, Parliamentary and Government Branch.

Processing charge

The FOI Act provides that charges can be imposed for processing requests. Unless a decision is made to waive the processing charge in whole or in part, the combined effect of paragraph 11A(1)(b) of the FOI Act and Regulation 11(1) of the *Freedom of Information (Charges) Regulations 1982* (the Charges Regulations) is that an applicant is required to pay any charge before any access is given.

The Charges Regulations specify different rates for the various activities involved in processing a request with the first five hours of decision-making time free for all FOI applicants.

The decision-maker has decided that you are liable to pay a charge should you wish to proceed with your FOI request. The preliminary assessment of the charge for processing your request is set out below:

Task	Rate	Units	Charge
Search & retrieval	\$15 per hour	6 hours	\$ 90.00
Decision-making	\$20 per hour	34.13 hours	\$ 682.60
<i>less first 5 hours free</i>		5 hours	\$ -100.00
TOTAL			\$ 672.60

Please note that the task of decision-making time includes consultation with 11 parties comprising third party consultation under section 27 of the FOI Act (business documents) and courtesy consultation with Australian Government agencies and non-Australian Government entities.

Section 29 of the FOI Act requires you to exercise one of the following options in writing within 30 days of receipt of this letter:

- (1) You can agree to pay the charge. If you agree, processing of your request will resume as soon as the Department receives a payment, either in full or a deposit.
 - Payment in full is \$672.60. Payment in full entitles you to receive a decision in relation to your request, a schedule which lists the documents relevant to your request, and any documents released.
 - Alternatively, payment of a deposit in the amount of \$168.15 entitles you to receive a decision in relation to your request and a schedule which lists the documents relevant to your request. Relevant documents would only be released on payment of the balance of the charge. Regulation 14 provides that a deposit paid by an applicant is not refundable unless the Department decides to waive the charge or fails to make a decision on the applicant's FOI request within the statutory time limit, including any extension.

Payment should be made by cheque or postal order and made out to the "Collector of Public Monies." If you wish to pay by credit card, you should forward a letter which sets out the credit card details and authorises the Department to charge that amount to the card.

- (2) You can contend that the charge has been wrongly assessed, or that it should be reduced or not imposed, or both. You should provide reasons for contending any charge. In determining whether or not to reduce or not impose the charge, the FOI Act requires the Department to take into account whether payment of the charge, or part of it, would cause financial hardship and whether the giving of access would be in the public interest. The Department may also consider any other relevant matters.
- (3) You can withdraw your request.

Processing timeframe

In accordance with section 31 of the FOI Act, the time limit for processing your request is suspended from the day that you receive this letter and will resume on either:

- the day you pay the charge (in full or the required deposit); or
- if you contend under (2) above that charge should be reduced or not imposed and the Department decides not to impose a charge, the day of that decision.

If you contend under (2) above that a charge should be reduced or not imposed and the Department confirms that a charge is payable (either the original amount or a reduced amount), the time limit for processing your request would resume on the day you pay that charge (in full or the required deposit).

Subsection 29(2) of the FOI Act provides if you do not respond within 30 days of receiving this letter, you will be taken to have withdrawn your request.

Request for further clarification of your FOI request

By email dated 31 May 2018 the Department acknowledged receipt of your FOI request and advised as follows:

For documents that fall within scope of the request, it is the Department's policy to withhold:

- any person's signature;
- the names and contact details of Australian Public Service officers not in the Senior Executive Service (SES);
- the mobile or direct numbers of SES officers;
- the names and contact details of Ministerial staff at a level below Chief of Staff.

The names and other details of SES officers will not be withheld unless there is some reason for that information to be exempt from release. If you require signatures, the names and contact details of non-SES officers or Ministerial staff below the level of Chief of Staff, or the mobile or direct numbers of SES officers please let us know at foi@pmc.gov.au so the decision-maker may consider within five working days. Otherwise we will take it that you agree to that information being excluded from the scope of your request (that is, the information will be treated as irrelevant and redacted from any documents for release).

Noting the Department's policy described above, and noting your advice that you are 'willing to agree to DPMC redacting, from any relevant document, the personal information of any person mentioned in that document, except where that person was, at the relevant time: i) a public servant; or ii) a member of parliament', please advise us whether you still seek access to any of the information covered by the Department's policy. We would appreciate your advice by Friday 22 June 2018. If we do not hear from you by the deadline, we will withhold from release in any relevant document any information described in the Department's policy above.

If you have any queries, please call (02) 6271 5849, or email foi@pmc.gov.au, and quote the reference number for this FOI request (FOI/2018/098).

Yours sincerely

Adviser
FOI and Privacy Section

15 June 2018