



**ASIC**  
Australian Securities &  
Investments Commission

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and Investments Commission**

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Our reference: 27356/18

7 December 2018

Mr Phillip Sweeney

By email – [foi+request-4783-594051a6@righttoknow.org.au](mailto:foi+request-4783-594051a6@righttoknow.org.au)

Dear Mr Sweeney

### **Freedom of information request – notice of charge decision**

We refer to your email dated 26 November 2018 in which you requested a waiver of a charge pursuant to section 29(5)(a) of the *Freedom of Information Act 1982 (FOI Act)*, on the grounds payment of the charge would cause you financial hardship.

On 30 November 2018, we wrote to you and requested evidence of financial hardship to support your claim for waiver. We asked you to respond by 5 December 2018, noting we intended to make our decision by 7 December 2018, in anticipation of ASIC's shutdown period between Christmas and New Year. We have not received your response.

I am an officer authorised under section 23(1) of the FOI Act to make decisions in relation to FOI requests. I have decided under section 29(4) not to vary the original assessment of the charge. The amount you are liable to pay is \$15.

The reasons for my decision under section 29(4) are set out below.

### **Reasons for my decision**

In the absence of evidence of financial hardship to support your claim for waiver, I consider that the payment of a charge of \$15, or part of it, would not cause financial hardship to you as the applicant. I acknowledge you claim to be victim of fraud and the conduct has impacted you financially.

I do not consider giving access to the document in question is in the general public interest or in the interest of a substantial section of the public. The document in question relates to your longstanding private dispute and attempts to expose fraudulent conduct you allege by the trustees of a regulated superannuation fund.

Furthermore, I do not consider that disclosure of the document would advance the objects of the FOI Act. I do not consider that disclosure of the document would promote better informed decision making or increase scrutiny or discussion of the Government's activities.

## Your review rights

If you are dissatisfied with my decision in relation to the charge, you may apply for internal review or Information Commissioner review of the decision. We encourage you to seek internal review as a first step as it may provide a more rapid resolution of your concerns.

### Internal review

Under section 54 of the FOI Act, you may apply in writing for an internal review of my decision. The internal review application must be made within 30 days of the date of this letter and can be addressed to the Senior Manager – Administrative Law by post at GPO Box 9827 SYDNEY or email at [foirequest@asic.gov.au](mailto:foirequest@asic.gov.au).

Where possible, please attach reasons why you believe review of the decision is necessary. The internal review will be carried out by another officer within 30 days.

### Information Commissioner review

Under section 54L of the FOI Act, you may apply directly to the Information Commissioner to review my decision. An application for review by the Information Commissioner must be made in writing within 60 days of the date of this letter, and be lodged in one of the following ways:

online:	<a href="https://forms.business.gov.au/aba/oaic/foi-review-/">https://forms.business.gov.au/aba/oaic/foi-review-/</a>
post:	GPO Box 2999, Canberra ACT 2601
fax:	02 9284 9666
in person:	Level 3, 175 Pitt Street, Sydney NSW

### Next steps in processing your request

In accordance with section 31 of the FOI Act, the 30-day time limit is suspended from the date you were notified of the charge until the earliest occurring of the following days:

- The day you pay the amount of the charge
- If the amount of the charge is changed following review under the FOI Act – the day you pay the revised charge
- If, following review under the FOI Act, a decision is made not to impose a charge – the day you are notified of that decision.

### Right to complain

You may lodge a complaint with the Information Commissioner in relation to the conduct of ASIC in the handling of your request. You may contact the Information Commissioner as described above.

**Questions about this decision**

If you have any questions or wish to discuss this decision with us, please contact Ms Faranaz Alam on 03 9280 3319 or by email at [faranaz.alam@asic.gov.au](mailto:faranaz.alam@asic.gov.au).

Yours sincerely

A handwritten signature in black ink, appearing to read 'D. Asadi', with a vertical line at the end.

**David Asadi**  
**Authorised decision-maker under subsection 23(1) FOI Act**  
**Australian Securities and Investments Commission**