



11 December 2018

Our reference: 1811002

Julie [foi+request-4942-e008b563@righttoknow.org.au](mailto:foi+request-4942-e008b563@righttoknow.org.au)

## Response to Charges Query

Dear Julie,

I refer to your email letter of 6 December 2018 contesting the charges levied on your Freedom of Information (FOI) request under the *Freedom of Information Act 1982 and the Freedom of Information (Charges) Regulations 1982* by the Australian Digital Health Agency (**the Agency**). I note that you consider the calculations of your charges letter to be unrealistic.

The charges estimate is an estimate. It is based on standardised measures relating to the amount of time required for certain tasks. These estimates are based on assumptions regularly applied across the Commonwealth. The estimates in all FOI matters account for the:

- number of relevant files;
- number of relevant pages;
- number of relevant documents;
- Number of exempt pages;
- number of pages released with deletions;
- number or any third parties to consult; and
- other costs.

In practice this means that the charges levied have considered the impact of the information in the document on decision making time and preparing material, its analysis and redaction. This takes considerably more time than the estimated five minutes a page for some documents.

Also, the Agency may recalculate the estimate to determine the actual cost of processing. If less than the accepted estimated, a refund will be provided between the difference of the actual and estimated costs of the FOI request at the end of the FOI process.

Under subsections 29(4) and 30A(1), the Agency retains the discretion to apply, reduce or remit charges, or to remit a fee. However, there is no automatic remission of fees or charges based solely on the status of the applicant or of the institution on behalf of which an applicant may be seeking access.

The FOI Act specifies two principal grounds for remission of fees and charges, which are financial hardship and public interest. The OAIC guidance advises that:

*“It is important that you explain or provide evidence to support your claim for waiver or reduction. To support a claim that a charge will cause you financial hardship you might, for example, provide a copy of a pension or welfare card. If you claim that disclosure would be in the public interest, you might*

*explain how the documents will be used in public research, in preparing a submission to a parliamentary inquiry, or in advancing public debate on a topic of current importance.*

*An agency is not obliged to waive or reduce a charge, even if it accepts your reason for requesting it. In particular, an agency can decide to impose a charge even though it would cause you financial hardship or disclosure would be in the public interest."*

As you have not stated any financial hardship grounds or public interest grounds, the Agency holds with the estimated charges levied and requires you to pay the deposit to enable the FOI process to advance.

#### **Review**

Decisions in respect of the imposition of application fees or charges are reviewable by internal review under section 54(1)(d) and (e) of the FOI Act, or by the OAIC, or review by the Administrative Appeals Tribunal (AAT) as set out in section 55(1)(d) and (e) of the FOI Act.

#### **Contact officer**

If you would like to ask any questions, the contact officer for your request is Cecilia who can be telephoned on (02) 6223 0780 or email at [foi@digitalhealth.gov.au](mailto:foi@digitalhealth.gov.au).

Yours sincerely



Bettina McMahon

Chief Operating Officer

Authorised Decision Maker