



Australian Government

Department of the Prime Minister and Cabinet

ONE NATIONAL CIRCUIT
BARTON

FOI/2014/017

FREEDOM OF INFORMATION ACT 1982

REQUEST BY: Daniel Nolan

**DECISION BY: Radi Kovacevic
Assistant Secretary
Information Services Branch**

FOI request

By email dated 10 February 2014 to the Department of the Prime Minister and Cabinet (Department) the applicant made a request under the *Freedom of Information Act 1982* (FOI Act) in the following terms:

I am requesting all internal communications or emails from the 4th of February 2014 onwards in relation to the "Stop Tony Meow" browser extension. Either anything containing the term "Stop Tony Meow" or linking to any articles or the like referring to the extension or the people using it.

Preliminary estimate of charges

The Department issued the applicant with a preliminary estimate of charges notice on 5 March 2014, notifying the applicant that I considered the applicant was liable to pay a charge for the processing of the FOI request and the preliminary estimate of the charge was \$720.30.

By email dated 5 March 2014, the applicant contested the charges estimate on public interest grounds, as follows:

In relation to the information regarding the "Stop Tony Meow" browser extension, I wish to contend that the charge of \$720.30 should not be imposed on the ground of public interest. This particular incident was a popular browser extension that received substantial media attention in multiple major newspapers and online outlets. The extension has been downloaded by tens of thousands of individuals. The manner in which the government responds and reacts to a social phenomenon like this software and the manner that they describe and discuss it internally is of substantial public interest. The records will be made available on righttoknow.org.au and for perusal by journalists from any number of publications as well as citizen journalists, academics and others for whom the manner in which Government reacts or responds to new and interesting forms of interaction and criticism.

Authorised decision-maker

I am authorised to make this decision in accordance with arrangements approved by the Department's Secretary under section 23 of the FOI Act.

Charges decision

I have decided to impose a charge of \$720.30 for the processing of the applicant's FOI request and decline to waive or reduce the charge on financial hardship or public interest grounds.

Reasons for decision

In accordance with section 29(5) of the FOI Act, without limiting the matters that the Department may consider in determining whether or not to reduce or not impose the charge, I have considered the following:

- whether payment of the charge, or part of it, would cause financial hardship to the applicant; and
- whether giving access to the documents in question is in the general public interest or in the interest of a substantial section of the public.

Financial hardship

The 'Guidelines issued by the Australian Information Commissioner under section 93A of the *Freedom of Information Act 1982*' (the FOI Guidelines) state that financial hardship as outlined in section 29(5) of the FOI Act, is primarily concerned with the applicant's financial circumstances and the amount of the estimated charges.¹ The FOI Guidelines also state that an applicant relying on this ground could ordinarily be expected to provide some evidence of financial hardship.²

As the applicant has not provided any evidence to support a submission that payment of the charge would cause financial hardship, I have no evidence before me to justify reduction or non-imposition of the charge on financial hardship grounds.

Public interest

In applying the public interest test in section 29(5) of the FOI Act, the FOI Guidelines note that it is important to identify the general public interest or the substantial section of the public that would benefit from disclosure.³ The FOI Guidelines further suggest that this will ordinarily require consideration both of the content of the documents and the context of their release; for example, whether the documents relate to a matter of public debate or a matter for decision by government.⁴

Having regard to the content of the documents in question, I am not convinced the documents relate to a matter of public debate, or a policy issue under discussion within an agency or that their disclosure would contribute to public debate or discussion. Disclosing the documents

¹ Australian Information Commissioner, *Guidelines issued by the Australian Information Commissioner under s 93A of the Freedom of Information Act* (Version 1.2, March 2013), Office of the Australian Information Commissioner, < <http://www.oaic.gov.au/publications/guidelines.html> > [4.50].

² Ibid [4.51].

³ Ibid [4.52].

⁴ Ibid, [4.53].

would not advance, in any meaningful way, public comment or discussion on, 'the manner in which the government responds and reacts to a social phenomenon like this software', as the applicant suggests. Despite the fact that any documents released would be automatically published on righttoknow.org.au and generally available for public access, I am satisfied that the content of the documents is such that their publication to a wide audience would not, in any way, inform or promote public discussion, understanding or comment on the manner in which government 'reacts or responds' to the "Stop Tony Meow" browser extension, as contended by the applicant.

Having regard to the content of the documents and the context of their release, I do not consider giving access to the documents is in the general public interest or in the interest of a substantial section of the public.

Discretion to reduce or not impose a charge

I have decided not to exercise my discretion to reduce or not impose a charge for processing the FOI request because weighing against the applicant's submissions I consider the charge is consistent with the 'lowest reasonable cost' objective stated in the objects clause of the FOI Act and the charge is a fair reflection of the amount of work required to process the request.

Payment of charges

In accordance with section 31(2) of the FOI Act, the processing period for the applicant's FOI request will resume on the day after the applicant pays the processing charge or deposit.

- As outlined above, payment in full is \$720.30 and would entitle the applicant to receive a decision in relation to his request, a schedule which lists the documents relevant to his request, and any documents released.
- Alternatively, payment of a deposit for this request is \$180.00 and would entitle the applicant to receive a decision in relation to his request and a schedule which lists the documents relevant to the request. If a deposit is paid, relevant documents to which access may be granted would only be released on payment of the balance of the charge. Regulation 14 of the *Freedom of Information (Charges) Regulations 1982* 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 within the statutory time limit, including any extension.

Payment can be made by cheque or postal order and made out to the "Collector of Public Monies." Alternatively, payment may be paid by direct deposit to:

Account name: PM&C Official Departmental Account
BSB: 032 722
Account Number: 132263
Reference: FOI 017

If the applicant pays by direct deposit, he should email FOI@pmc.gov.au advising the Department of the date you made the direct deposit and the payment amount. Regrettably, the Department does not currently have credit card facilities and payment by credit card is not available at this time.

Rights of complaint and review

Information about the applicant's rights of review and complaint will be provided together with this decision.

If the applicant wishes to discuss any aspect of his FOI request, he should contact the Department by email at FOI@pmc.gov.au or by telephone on (02) 6271 5849.

A handwritten signature in black ink, consisting of a stylized 'R' followed by a long horizontal line that ends in a small dot.

Radi Kovacevic
Assistant Secretary
Information Services Branch

8 April 2014