



Mr Ben Fairless
 via email: foi+request-5211-e66e4c9b@righttoknow.org.au

Dear Mr Fairless

Freedom of Information request no. 2018/19 - 009

I refer to your request of 11 January 2019 seeking access under the *Freedom of Information Act 1982* (the FOI Act) to documents relating to the National Health and Medical Research Council's (NHMRC) Freedom of Information (FOI) process and policies, namely:

1. All current policies, procedures, business rules, or other internal documents created by NHMRC, which detail how Freedom of Information Requests are processed, by whom, and how they are to be treated.
2. Documents which show the training provided to NHMRC decision makers and employees within the Freedom of Information team at NHMRC.
3. Internal correspondence in relation to Freedom of Information requests made using the Right to Know service.
4. All recorded external qualifications, training certificates, or other Learning and Development records for employees in the Freedom of Information team and for all decision makers of the NHMRC.
5. A copy of the Authorisation made by the principal officer of the agency under section 23 of the Freedom of Information Act 1982. Under the *Freedom of Information (Fees and Charges) Regulations 1982* (the Regulations) a charge can be levied in respect of a request for access to documents under the FOI Act. The charge is for search and retrieval of documents, decision making and provision of access (for example postage).

I am an authorised decision-maker under subsection 23(1) of the FOI Act and I have decided that you are liable to pay a charge in respect of the processing of your request for access. I have assessed the work NHMRC would need to undertake in order to process your request and have calculated the following charges:

Searching electronic and hard copy files		
1. Search and retrieval time (including time spent locating relevant files and collating relevant documents contained on those files)	12.50 hours @ \$15.00 per hour	\$ 187.50
2. Decision making time (including time spent examining the documents, considering exemptions, undertaking consultation, writing the decision and preparing any documents for release)	100 hours @ \$20.00 per hour Less first 5 hours which are free	\$2,000.00 (\$100.00)
TOTAL COST		\$2,087.50

Please be advised that the majority of this cost relates to part three of your request, 'seeking internal correspondence in relation to Freedom of Information requests made using the Right to Know service'.

Our preliminary search for relevant documents has identified a large quantity of potentially relevant internal correspondence, which comprises working drafts and legal advice provided to assist the decision-makers. Many of these documents are not procedural documents, but relate to processing individual FOI requests. A decision maker would have to consider whether consultation with third parties was required, and whether any exemptions under the FOI Act apply. Given the more general nature of this part of your request, you may wish to consider refining its scope to exclude such documents, which would reduce the charges.

In reaching my decision to impose a charge, I had regard to Part 4 of the Office of the Australian Information Commissioner's *Guidelines under s 93A of the FOI Act - Charges for Providing Access* (December 2016).

The Regulations prescribe that where a charge is imposed and exceeds \$25.00 but is less than \$100.00, a deposit of \$20.00 will be sought. Where a charge is imposed and exceeds \$100.00, a deposit of 25% may be sought. Based on the preliminary estimate of charges for your request, which is \$2,087.50, I have decided you are required to pay a deposit of \$521.88.

Subsection 29(1) of the FOI Act requires you to notify NHMRC, in writing, within 30 days of receipt of this notice that you:

- agree to pay the charge (in which case you should also forward the deposit); or
- refine your request as outlined above, and in doing so, a new assessment of charges would be made and provided to you;
- wish to argue that:
 - the charge has been wrongly assessed, giving reasons; or
 - the charge should be reduced or not imposed (for instance, where payment of the charge would cause you financial hardship or where you believe access to documents is in the general public interest), with reasons; or
- withdraw your request.

If you fail to notify NHMRC within 30 days about what you propose to do, subsection 29(2) of the FOI Act provides that you are taken to have withdrawn your request.

Please note that if you are arguing that the charge should be reduced or not imposed because the payment would cause you financial hardship, or because you believe access would be in the public interest, you must provide sufficient cogent reasons to provide a basis on which a decision-maker could reduce, or not impose, the fee. In deciding whether to waive or reduce a charge, a decision-maker is also able to take into account matters other than financial hardship and the public interest in disclosure.

The time limit for processing your request is suspended, in accordance with section 31 of the FOI Act, from the date you receive this notice and resumes on the day you pay the charge or deposit, or the day on which NHMRC makes a decision not to impose a charge.

If you agree to pay the charge, you are accepting liability for settlement of the debt with NHMRC upon completion of processing the FOI request as prescribed by section 29 of the FOI Act. Once your FOI request has been processed the outstanding amount of the charge becomes a debt to the Commonwealth. NHMRC is obliged to pursue recovery of the debt in accordance with the *Public Governance, Performance and Accountability Act 2013*.

Manner of payment

If you accept liability for the estimated charge for your request, please note that our preferred payment method is by EFT, into our account using the following details:

Bank: RBA

Branch: London Circuit, Canberra ACT 2601

BSB: 092-009

A/C no: 117862

A/C name: NHMRC Official Department Account 092-009 117862.

SWIFT Code: RSBKAU2S

Please record in the reference line the words "FOI number 2018-19-009 and email us at foi@nhmrc.gov.au notifying us that you have paid the charge and citing the FOI number listed at the top of this letter.

If you wish to pay by cheque, please contact the FOI Coordinator on (02) 6217 9406.

Accepting the charges

Please note that if a charge is imposed and accepted by you (for example, by paying the deposit), you will not receive access to any documents until all charges are paid. Once paid, your deposit is not refundable unless either NHMRC decides to waive the charge or fails to make a decision on your FOI request within the statutory time limit, including any extension.

If you have any queries about any of the matters discussed in this letter, please contact me via foi@nhmrc.gov.au.

Yours sincerely



Dr Tony Willis
Executive Director
Research Quality & Priorities

22 January 2019