



Australian Government

Department of the Prime Minister and Cabinet

ONE NATIONAL CIRCUIT
BARTON

FOI

FOI/2019/150

HW

By email: foi+request-5491-70caa1aa@righttoknow.org.au

Dear HW

I refer to your email, dated 28 June 2019, 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:

I refer to this article: <https://www.theguardian.com/australia-news/2019/jun/26/whistleblower-hits-out-at-pms-department-over-pervasive-and-toxic-disregard-for-law> which concerns systemic corruption engaged in by the PM/PM's Department.

I note that the article states that the investigators into that systemic corruption "recruited two solicitors from the Australian Government Solicitor (AGS)" to help with the investigation.

It's in the public interest to know how much taxpayer money the PM/his Department spent on lawyers to paper over the PM's/Department's corruption.

Under the FOI Act, I seek copies of invoices given to the Department by AGS in respect of services rendered by AGS related to the public interest disclosure the subject of the above article.

On 27 July 2019, the Department wrote to you to advise that in accordance with s15(6) of the FOI Act, the processing period for your request had been extended to allow for third party consultation.

On 22 August 2019, the Office of the Australian Information Commissioner (the **OAIC**) approved an extension of the processing period by a further 30 days under section 15AB(2) of the FOI Act.

On 23 August 2019, you wrote to the Department to advise that:

... I'm happy for the Department to black out the names/personalinfo [sic] of anyone contained in the invoices. There's no public interest in that info, but there's obviously a

massive public interest in knowing how much taxpayer money the PM/PM's Dept spent on investigating his own corrupt staff.

Accordingly, the Department has interpreted your request, as revised, to be for:

... copies of invoices given to the Department by AGS in respect of services rendered by AGS related to the public interest disclosure the subject of the article in the Guardian dated 26 June 2019 (available here: <https://www.theguardian.com/australia-news/2019/jun/26/whistleblower-hits-out-at-pms-department-over-pervasive-and-toxic-disregard-for-law>). The names and personal information of anyone contained in the invoices are to be excluded. ('the revised request')

Authorised decision-maker

The authorised decision-maker for your revised request is Mr Stephen Heskett, Assistant Secretary, Shared Services Branch.

Processing charge

The Department has identified documents within the scope of your revised request.

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 subsection 11(1) of the *Freedom of Information (Charges) Regulations 2019* (the Charges Regulations) is that an applicant is required to pay any charge before access is given to a document.

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 revised request. The preliminary assessment of the charge for processing your revised request is set out below:

TASK	Rate	UNIT	CHARGE
Search and retrieval	\$15 per hour	1.37 hours	\$ 20.55
Decision-making	\$20 per hour	9.47 hours	\$ 189.40
Less first 5 hours free			-\$ 100.00
TOTAL		4.47 hours	\$ 109.95

Please note that the task of 'decision-making' in the preliminary assessment generally includes third-party consultation under section 27 (business documents) and/or section 27A (documents affecting personal privacy) under the FOI Act. However, as your revised request excludes third party personal information, it has not been included in the calculation of the charge, despite the Department not receiving your revised request until after the third party consultation had already occurred.

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 \$109.95. 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 \$27.49 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. The deposit paid by an applicant is not refundable unless the Department decides to waive the charge, or fails to make a decision on the FOI request within the statutory time limit including any extension, or may be refundable in part if the final charge is less than the deposit paid.
 - You may pay by direct debit or by credit card.

Direct debit

You may pay by direct debit into the following account:

Account Name:	Department of the Prime Minister and Cabinet Official Departmental Account
BSB:	032-722
Account:	132263
Reference:	FOI/2019/150

Credit card

You may pay by credit card over the phone by contacting the Department's Accounts Receivable team on 02 6271 6000 select option 4 then option 3.

- Please advise the FOI and Privacy Section at foi@pmc.gov.au once you have made payment. Once the Department receives your payment, the Department will send you a receipt.
- (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.

No guarantee of access

Please be aware that even if you pay the charge (in full or the required deposit), there is still no guarantee that documents will ultimately be released. That is a matter for the decision-maker to decide in the usual manner after examining the relevant documents.

If you have any queries, please contact the FOI and Privacy Section on (02) 6271 5849 or foi@pmc.gov.au.

Yours sincerely

signed

Emily Arnberg
Senior Adviser
25 September 2019