



Australian Government

Department of Immigration and Border Protection

16 June 2014

Mr Ben Fairless

Right to know

[foi+request-582-584366f5@righttoknow.org.au](mailto:foi+request-582-584366f5@righttoknow.org.au)

**In reply please quote:**

FOI Request: FA 14/04/00806

File Number: ADF2014/13362

Dear Mr Fairless

**Freedom of Information request – Notice of charge decision following applicant contention that charge be reduced or not imposed (s 29(8))**

This notice of decision refers to your request received by the Department of Immigration and Border Protection (the Department) on 12 April 2014 seeking access under the *Freedom of Information Act 1982* (the FOI Act) to the following documents:

*I request, under the Freedom of Information Act, a copy of all documents that contain a reference to "Right to Know" or "OpenAustralia Foundation", their relevant acronyms ("RTK" and "OAF").*

*This request includes, but is not limited to, emails, policy statements and hand written notes.*

*Lets put a date limit in from 1 January 2012.*

*I'll revise the scope to:*

- FOI and Privacy Policy Section*
- Legal and Assurance group*
- Senior Executives within the Department (I note a list is provided here: <<http://www.immi.gov.au/about/departmentsenior-staff/>>)*

*This request is subject to the following exclusions:*

- FOI Applications from users of Right to Know, and the direct responses to those applications*
- The names of anyone who is NOT a Public Servant*

I refer to your email of 23 May 2014 in which you requested that the charges be reduced or not imposed on the grounds that the original charge was wrongly assessed.

**people** our business

6 Chan Street Belconnen ACT 2617

PO Box 25 BELCONNEN ACT 2616 • Telephone 02 6264 1111 • Facsimile 02 6225 6970 • Website: [www.immi.gov.au](http://www.immi.gov.au)

I am writing to advise you of my decision in respect of your request on 23 May 2014 that I am not waiving or reducing my initial assessment of the charges. I am an officer authorised under s.23(1) of the Act to make decisions in relation to FOI requests.

I have decided under s 29(4) not to reduce the amount of the original charge. The amount you are liable to pay is \$459.75. The reasons for my decision under s 29(4) are set out below.

### **Reasons for my decision**

I have considered the following:

- whether payment of the charge, or part of it, would cause financial hardship to the applicant or a person on whose behalf the application was made;
- whether 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 arguments you have put forward in your email of 23 May 2014; and
- whether disclosure of a document would advance the objects of the Act.

I have determined that the disclosure of the documents in question is in the general public interest or in the interest of a substantial section of the public.

I have also considered the original charge and your contention that it was wrongly assessed, in particular, the component charged for search and retrieval. Search and retrieval of documents must take into account the number of staff required to search for documents and is not simply a reflection on the number of pages that fall within scope. Many staff provided a 'nil' result as a result of their searches, however, the time taken for them to undertake that search must be considered in determining charges. Given the scope of your request, a significant number of staff were contacted to search for documents. Searches for documents are not necessarily limited to email accounts and can include email archives and TRIM files (TRIM is the departmental record keeping system). Searches must also cover the key search parameters specified by you in the scope of your request - "Right to Know", "OpenAustralia Foundation", and their relevant acronyms ("RTK" and "OAF"). Given that the scope of the request covers the time period 1 January 2012 to present, the search for documents and assessment of whether documents are in scope takes a large amount of time.

The charge must also take into account other components of the request, including the time taken to contact and liaise with other staff who were contacted in relation to this request. When documents are provided to the decision maker, they must be assessed to determine whether they fall within the scope of your request. The time taken for this process is accurately reflected in the original charge. Therefore, I have not reduced or waived the charge.

### **Next steps in processing your request**

As the charge exceeds \$100, you must pay a 25% deposit of \$114.94, in accordance with regulation 12 of the *Freedom of Information (Charges) Regulations 1982* (the FOI Charges Regulations).

The deposit will be refunded if the Department fails to make a decision on your request within the statutory time limit.

Please note that if you choose to pay the deposit only, while the Department will be under an obligation to provide you with the decision by the due date, the documents will not be provided until you have paid the balance of the charges (s.11A(1)(b) of the Act and Regulation 11 of the

FOI Charges Regulations).

**How to pay the charge**

The deposit can be paid by cheque, money order or credit card. Cheques and money orders should be made payable to "Collector of Public Monies DIBP" and sent to:

FOI & Privacy Policy Section  
Department of Immigration & Border Protection  
PO Box 25  
BELCONNEN ACT 2616

If you wish to pay by credit card, please fill out the attached credit card authorisation form and forward to FOI & Privacy Policy Section at the above address, or email to [foi@immi.gov.au](mailto:foi@immi.gov.au).

If you wish to pay by Electronic Funds Transfer (EFT) the department's bank account details are as follows:

Bank:	CBA
BSB:	062987
Account Number:	10016044
Account Name:	DIBP Official Administered Direct Credit Receipts Account

When making the transfer you will need to quote the number of your request - **FA 14 04 00806** - so that your payment can be identified by our Finance area. Failure to do so may result in payments not being identified as FOI related and could result in processing delays.

Please advise FOI when you have made the payment made by direct credit so that we can contact the Finance area and they can issue a receipt. You should also be aware that payments by direct credit are not processed in real time. There is at least a one day delay between somebody paying money into the department's account and notification of the payment via our bank account statement.

**Time in which to respond**

Under the Act you have 30 days from the date of this notice to provide the Department with a response to my decision and either agree to pay the charges or seek an internal review of my decision. Your full review rights are set out in the next section, headed 'Review Rights'.

Therefore, you must provide the Department with a written response as to how you wish to proceed by close of business Wednesday 16 July 2014.

**Review rights**Internal review

If you disagree with my decision, you have the right to apply for an internal review by the Department my decision. Any request for internal review must be provided to the Department by the date set out above. Where possible please attach reasons why you believe review of the decision is necessary. The internal review will be carried out by an officer other than the original decision-maker and the Department must make a review decision within 30 days.

Applications for review should be sent to:

Freedom of Information  
Department of Immigration and Border Protection  
PO Box 25  
BELCONNEN ACT 2617

Or by email to: [foi@immi.gov.au](mailto:foi@immi.gov.au)

Review by the Office of the Australian Information Commissioner

You may apply directly to the Office of the Australian Information Commissioner (OAIC) for a review of my decision. You must apply in writing within 60 days of this notice. For further information about review rights and how to submit a review request to the OAIC, please see FOI fact sheet 12 '*Freedom of information – Your review rights*', available online at [www.oaic.gov.au](http://www.oaic.gov.au).

**How to make a complaint about the handling of this FOI request**

You may complain to the Australian Information Commissioner if you have concerns about how the Department has handled your request under the Act. Information about how to submit a complaint is also available at [www.oaic.gov.au](http://www.oaic.gov.au).

**Contacting the FOI Section**

If you wish to discuss this matter, I can be contacted using the details provided below.

Yours sincerely



Steven HOCKING  
Assistant Director  
FOI & Privacy Policy Section  
Ministerial, Executive and Accountability Branch  
Department of Immigration and Border Protection  
Phone (02) 6264 1007  
Email [foi@immi.gov.au](mailto:foi@immi.gov.au)