



Please quote: LEX 8298

15 August 2014

'Anonynouse'

By email: foi+request-609-68b60dfd@righttoknow.org.au

Dear Anonynouse,

Your Freedom of Information request

1. I refer to your request for the following documents under the *Freedom of Information Act 1982* (the FOI Act):

In relation to telephone call statistics, I seek the following for the period 2011-today:

Quarterly reports for the NewStart Allowance hotline (132 850) and Youth Allowance/AusStudy hotline (132 490) that provide high level information about:

- *call wait times (for customers who call and are placed on hold); and*
- *how frequently callers are transferred from one area to another.*

...QoS may also be referred to as a Service Level Agreement (SLA). It is a common clause in ICT contracts whereby a supplier will guarantee a certain level of availability of their systems and may pay penalties for failing to meet these targets.

In regard to the software(s) used by Centrelink call centre staff manning the lines of the aforementioned phone numbers, I also seek the following for the period 2011-today:

1. *Contract outlines and QoS/SLA information from contracts of ICT suppliers who have designed and/or work on maintaining this backend system for Centrelink.*
2. *Any documents or reports showing length of time, number of incidents, and causes for such incidents where this backend software was unavailable to Centrelink staff.*
3. *Any performance reports of the software suppliers for Centrelink's backend systems".*

I have been unable to ascertain the makers of these softwares from publicly available information and may be able to further refine my request below if these software vendors are made known to me.

Preliminary assessment of the charge

2. On 1 July 2014, the department wrote to you to notify you of the preliminary estimate of the charge (the Charge) for the processing your request, calculated as follows:

Search and retrieval time: 3.5 hours, at \$39.00 per hour:	\$136.50
0.5 hours, at \$49.00 per hour:	\$24.50
0.5 hours, at \$57.00 per hour:	\$28.50
Decision making time: 2 hours minus the first 5 hours* at \$20.00 per hour:	\$0.00
TOTAL	\$189.50

*The FOI Act provides that the first five hours of decision making time are free of charge and this is reflected in the calculation.

3. On 16 July 2014, you wrote to the department by email, contending that the Charge not be imposed on financial hardship grounds and public interest grounds, pursuant to section 29(1)(f)(ii) of the FOI Act.

Decision-maker

4. I am an authorised decision-maker under section 23 of the FOI Act.

Material Considered

5. I have taken the following material into account in making my decision:
 - the department's correspondence of 1 July 2014, notifying you of the Charge;
 - your correspondence of 16 July 2014, contending that the Charge should not be imposed;
 - the document that falls within the scope of your request;
 - the FOI Act;
 - the *Freedom of Information (Charges) Regulations 1982 (the Regulations)*; and
 - the Guidelines issued by the Australian Information Commissioner under section 93A of the FOI Act (**the Guidelines**).

FOI Legislation

6. Subsection 29(4) of the FOI Act provides that where an applicant has notified an agency that the applicant contends that a charge should be reduced or not imposed in relation to a request under the FOI Act, then the agency may decide that the charge is to be reduced or not imposed.
7. Subsection 29(5) of the FOI Act provides that, without limiting the matters that the agency may take into account when making a decision about whether to reduce or not impose a processing charge, the decision maker must consider:
 - whether payment of a charge, or part of it, would cause financial hardship to an applicant; and
 - whether the giving of access to the document in question is in the general public interest or in the interest of a substantial section of the public.
8. Subsection 29(8) of the FOI Act provides that, if an applicant makes a contention about a charge as mentioned in subsection 29(4) and the agency makes a decision to reject the contention in whole or in part, then the agency must give the applicant written notice of the decision and the reasons for the decision.

Decision on charge

9. The following is my decision in relation to your request for non-imposition of the Charge and the reasons for my decision.
10. I have decided to reduce amount of the Charge that was notified to you by 50% to **\$94.75**.

Calculation of the charge

11. As a preliminary step in my consideration of whether a processing charge should apply to this request, I have examined the calculations which were used to determine the charge.
12. In its notice of 1 July 2014, the department advised you that it had created a one page document under section 17 of the FOI Act in order to respond to the part of your request seeking information in quarterly reports for the NewStart Allowance hotline and Youth Allowance/AusStudy hotline. You were advised that the Charge was calculated only in relation to that part of your request because the department had been unable to locate documents falling within the scope of other parts of your request.
13. The Charge, totalling **\$189.50**, was calculated on the following basis:

Search and retrieval time: 3.5 hours, at \$39.00 per hour:	\$136.50
0.5 hours, at \$49.00 per hour:	\$24.50
0.5 hours, at \$57.00 per hour:	\$28.50
Decision making time: 2 hours minus the first 5 hours* at \$20.00 per hour:	\$0.00
TOTAL	\$189.50

14. In calculating processing charges for FOI requests, the department applies relevant provisions of the Regulations, the FOI Act and the Guidelines in relation to the amounts it is permitted to charge.
15. The department calculates the amount it may charge based on:
- the time taken to search for, and retrieve, files containing documents within scope;
 - the number of third parties with whom it will be necessary to consult in the course of making a decision regarding the release of the documents;
 - the number and size (number of pages) of the documents that have been identified as falling within the scope of the requests and the resultant time taken for decision-making in relation to each of those pages (less the first five hours of decision-making, which are free of charge; and
 - the number of pages considered sensitive, requiring redaction (and therefore potentially extra decision-making time).
16. Relevantly in this case, the Regulations give an agency the discretion to charge an amount up to the actual cost incurred by the agency in producing a document where information requested is not available in discrete form in the documents of the agency.

17. Based on information from the department's Service Delivery Performance and Analysis Branch, it was estimated that it would take approximately 3.5 hours for a dedicated officer to extract the relevant information and produce the document, and a further 1 hour for the document to be reviewed by senior staff. Taking into account the pay rates of relevant staff, it was estimated that the cost of producing the document (search and retrieval time) was approximately \$189.50. Based on the content of the document, it was also estimated that a further 2 hours would be required to make a decision on access in relation to the document, including preparing a statement of reasons.
18. Having examined the calculation of the Charge and the reasoning behind it, I am of the view that the Charge calculated fairly reflects the work involved in processing your request and is a fair contribution towards the cost of processing your request.

Reasons for decision

19. I note that subsection 29(5) of the FOI Act prescribes matters that I must take into account. My consideration of those matters is set out below.

Financial Hardship

20. Paragraph 29(5)(a) of the FOI Act provides that, without limiting the matters an agency may take into account in determining whether or not to reduce or not to impose the charge, the agency must take into account whether the payment of the charge, or part of it, would cause financial hardship to the applicant.
21. Paragraph 4.50 of the Guidelines provides that, in applying paragraph 29(5)(a) of the FOI Act, whether payment of a charge would cause financial hardship to an applicant is primarily concerned with the applicant's financial circumstances and the amount of the estimate charge. Financial hardship means more than an applicant having to meet a charge from his or her own resources.
22. In your email of 16 July 2014, you submitted that imposition of the Charge would cause you financial hardship. In support of your submission, you stated:

"This request relates to Centrelink, Australia's social welfare system. Persons on Centrelink's Newstart Allowance (single, no children) have a capped income of \$510.50 per fortnight. The assessed charge of \$189.50 amounts to 5.2 days of income for a Newstart recipient. Given Australia's very high cost of living, people on Newstart do not have this kind of money spare after rent/electricity/food.

I was recently on the Newstart Allowance and certainly didn't have a cent spare for anything, let alone information from the government. Whilst I am now employed, my job is seasonal and under the government's proposed "earn or learn" system from the 2014 budget, I now face the prospect of being without this safety net for 6 months of the year as an under 30. I must save every cent I can now with such an uncertain future, and those who are still on Newstart, or any other Centrelink payment, the people on behalf of whom I make this request, simply cannot afford to depart with such a substantial figure with the minimal income they receive".

23. Based on the information that you have provided regarding the seasonal nature of your employment and possible future lack of certainty in relation to income, I accept that paying the Charge may be difficult for a person in your circumstances.
24. However, given that you are currently employed, and have not provided any other submissions or evidence concerning your financial situation (such as, for example, details of regular payments that you are required to make or other significant costs that would impact your ability to pay the Charge), I have decided that, in the absence of evidence, imposing the Charge would not cause you financial hardship such that the department should reduce or waive the amount of the Charge.
25. Your comments in relation to the Newstart Allowance more broadly and people on behalf of whom you are making your request are not relevant to my assessment of whether or not the imposition of the Charge would cause you personal financial hardship, and I have not considered them.

Public Interest

26. Paragraph 29(5)(b) of the FOI Act provides that, without limiting the matters the agency may take into account in determining whether or not to reduce or not to impose the charge, the agency must take into account whether the giving of access to the document in question is in the general public interest or in the interest of a substantial section of the public.
27. Paragraph 4.53 of the Guidelines provides that in applying paragraph 29(5)(b) of the FOI Act it is important to identify the 'general public interest' or the 'substantial section of the public' that would benefit from disclosure. Further, while the applicant may benefit from disclosure, there should also be a benefit flowing more generally to the public or a substantial section of the public.
28. In your email of 16 July 2014, you submitted that disclosure of the document within the scope of your request is in the general public interest or the interest of a substantial section of the public. In support of that submission, you discussed the issue of the length of Centrelink call wait times, including citing apparent discrepancies between the findings of a recent report by the Commonwealth Ombudsman and anecdotal evidence about the length of call wait times. In summary, you submitted that it is in the public interest that people know what actual Centrelink call wait time figures are, as this is an issue that impacts people across the community, particularly jobseekers and others who regularly access Centrelink services.
29. I accept that the issue of length of Centrelink call wait times is one that impacts people across the community. I also accept that disclosure of this information is in the interest of a substantial section of the public, and that there is a potential benefit flowing from the disclosure of this type of information, being greater scrutiny of this aspect of government service delivery, which has the potential to drive improvements.
30. I note also that an apparent general public interest in these issues is evidenced by the fact that the length of call wait times has at various times in the past been the subject of parliamentary questions on notice and media attention.

31. I have had regard to the subject matter of the documents that you have requested. As set out in paragraph 4.53 of the Guidelines, for the purposes of paragraph 29(5)(b) of the FOI Act, there should be a benefit flowing more generally to the public or a substantial section of the public, as well as to the applicant who requested the documents.
32. Given the nature of the documents requested, and taking into account your submissions, I consider that there would be a benefit flowing generally to the public or a substantial section of the public if you were provided with access to those documents. On that basis, I have decided to reduce the amount of the Charge by 50%.

Other grounds for reduction

33. Subsection 29(4) of the FOI Act gives a general discretion to reduce or not to impose a charge which goes beyond matters relating to financial hardship and the public interest. In considering this general discretion, I have had regard to whether the charge imposed appropriately reflects the cost of processing your request.
34. As outlined in paragraphs 17 and 18 above, I consider that the calculation of the Charge fairly reflects the work in processing your request. I note that processing charges are designed to be a contribution to the cost of processing FOI requests and do not compensate the full costs associated with the processing of a request.
35. I note also that, in recognition of the general public interest in allowing access to government information, the FOI Act provides for the first five hours of decision-making time to be free of charge for all applicants. This discount was applied to the calculation of the Charge notified to you on 1 July 2014.

Conclusion on charge

36. On balance, after weighing the arguments that you have submitted, I have decided to reduce the amount of the Charge by 50%. The amount payable by you is therefore **\$94.75**.

Options to proceed with your request

37. In order for your request to continue to be processed, you are required to respond in writing within 30 days of receipt of this notice in accordance with one of the following options:

- A. Pay the Charge;
- B. Request a review of the decision to impose the Charge; or
- C. Withdraw your request.

38. Further information on each of these options is set out below.

Option A – Pay the Charge

39. The amount due should be paid by cheque or money order and made out to the Collector of Public Monies. Please quote reference number [LEX 8298] with your payment.

40. Please send to:

Vickie Denham
FOI Legal Team
Department of Human Services
PO Box 7788
CANBERRA ACT 2610

41. Should you elect to pay the reduced charge amount, please email FOI.Legal.Team@humanservices.gov.au once you have posted your cheque or money order to advise us of your payment.

Option B – Request a review of the decision to impose the Charge

42. Please find attached a document setting out your rights of review at **Attachment A**.

Option C – Withdraw your request

43. If you wish to withdraw your request you may do so in writing. Alternatively you may wish to consider narrowing the terms of your request. If the scope of your request can be reduced, the charge may be recalculated accordingly.

Further Information

44. If you fail to undertake any of the options set out above within 30 days of receiving this notice, your request will be taken to have been withdrawn under subsection 29(2) of the FOI Act.

45. Should you have any enquiries concerning this matter, please contact me at FOI.Legal.Team@humanservices.gov.au.

Yours sincerely,



Julian Russell
Government Lawyer
FOI Team
Freedom of Information and Information Release Branch

INFORMATION ON RIGHTS OF REVIEW

FREEDOM OF INFORMATION ACT 1982

Application for review of decision

The Freedom of Information Act 1982 (FOI Act) gives you the right to apply for a review of this decision. Under sections 54 and 54L of the FOI Act, you can apply for a review of this decision by:

- (i) an internal review officer in the Department of Human Services; or
- (ii) the Information Commissioner.

Internal Review

If you apply for internal review, it will be carried out by a different decision-maker who will make a fresh decision on your application. An application for review must be:

- made in writing;
- made within 30 days of receiving this letter; and
- sent to the address at the head of this letter.

No particular form is required, but it is desirable to set out in the application the grounds upon which you consider the decision should be reviewed.

If the internal review officer decides not to grant you access to all of the documents to which you have requested access, you have the right to seek a review of that decision by the Information Commissioner. You will be further notified of your rights of review at the time you are notified of the internal review decision.

Please note that if you apply for an internal review and a decision is not made by an internal review officer within 30 days of receiving the application, you have the right to seek review by the Information Commissioner for a review of the original FOI decision on the basis of a 'deemed refusal' decision. An application for Information Commissioner review in this situation must be made within 60 days of the date when the internal review decision should have been made (provided an extension of time has not been granted or agreed).

Information Commissioner review

You must apply in writing within 60 days of the receipt of the decision letter and you can lodge your application in one of the following ways:

Online: www.oaic.gov.au Post: GPO Box 2999, Canberra ACT 2601 Fax: +61 2 9284 9666 Email: enquiries@oaic.gov.au	In person: Level 8, Piccadilly Tower, 133 Castlereagh Street, Sydney NSW
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If a person has sought an internal review and no result of that review is provided within 30 days, then the applicant may apply to the Information Commissioner to review the matter.

An application form is available on the website at www.oaic.gov.au. Your application should include a copy of the notice of the decision that you are objecting to (if one was provided), and your contact details. You should also set out why you are objecting to the decision.

Complaints to the Commonwealth Ombudsman and Information Commissioner

Commonwealth Ombudsman

You may complain to the Ombudsman concerning action taken by an agency in the exercise of powers or the performance of functions under the FOI Act. There is no fee for making a complaint. A complaint to the Ombudsman may be made in person, by telephone or in writing. The Ombudsman's contact details are:

Phone: 1300 362 072

Website: www.ombudsman.gov.au

The Commonwealth Ombudsman generally prefers applicants to seek review before complaining about a decision.

Information Commissioner

You may also complain to the Information Commissioner concerning action taken by an agency in the exercise of powers or the performance of functions under the FOI Act. There is no fee for making a complaint. A complaint to the Information Commissioner must be made in writing. The Information Commissioner's contact details are:

Telephone: 1300 363 992

Website: www.oaic.gov.au