



Our ref. 186/2020

Andy Johnson  
Right to Know  
Via email  
[foi+request-6326-daaf7239@righttoknow.org.au](mailto:foi+request-6326-daaf7239@righttoknow.org.au)

25 June 2020

1. I refer to your request received by the Digital Transformation Agency (the DTA) on 1 May 2020 for access under the *Freedom of Information Act 1982* (FOI Act) to:
  - *the final deliverables relating to the COVIDSafe app developed by BCG Digital Ventures for the Department / Agency. Specifically I mean deliverables produced by the consulting firm including design report, technical documentation, and software architecture description.*
  - *I would also like to request copies of presentations delivered by BCG to the Department executives / steering committees during their engagement.*
  - *Finally I would like to request copies of IT security audits of the application if this has been done.*

### Background

2. On 26 May 2020 the DTA advised you of the preliminary estimate of the charge for processing your request, being \$888.15 (the charge).
3. On 3 June 2020, in an email to the DTA, you contended that the charge should not be imposed on public interest grounds under paragraph 29(5)(b) of the FOI Act.
4. Specifically, you made the following submission in support of your contention:

*I do not think it is fair charging this fee given the significant amount of public interest in this matter recently. Millions of people have downloaded the app in recent months and they deserve to know whether it is secure given Australian taxpayer money paid for it. The publicity is further exacerbated by the fact that state health authorities have not been effective in making good use of the app yet*

5. I am authorised to make decisions under the FOI Act and the following is my decision in relation to your contention that the charge should not be imposed.

### Decision

6. I have decided to impose the charge in full.

### Reasons for decision

7. I have taken the following material into account in making my decision:
- your initial request for documents
  - the DTAs letter notifying you of the charge, dated 26 May 2020;
  - your email of 3 June contending that the charge should not be imposed on public interest grounds;
  - the documents falling within the scope of your request;
  - the FOI Act;
  - the *Freedom of Information (Charges) Regulations 1982* (the Regulations); and
  - guidelines issued by the Australian Information Commissioner under section 93A of the FOI Act (the Guidelines);

### Calculation of the charge

8. 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.
9. The DTA advised you on 26 May that the charge, totalling \$888.15, was calculated on the following basis:

10.

<b>Process</b>	
Search and retrieval @ \$15.00 per hour	\$108.25
Decision-making @ \$20.00 per hour	\$879.90
<i>Less 5 hours free</i>	<i>\$100.00</i>
<b>Total</b>	<b>\$888.15</b>
Deposit	\$222.04

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

11. In calculating a processing charge for a Freedom of Information application, the DTA considers relevant provisions of the FOI Act, the Regulations and the Guidelines in relation to the amount it is permitted to charge. The DTA calculates the amount it may charge based on:
- the time taken to search for, and retrieve, files containing documents that fall within the scope of the request;
  - the number of third parties with whom it will be necessary to consult in the course of making a decision regarding release of the documents; and
  - the number and size (volume) of the documents that have been identified as falling within the scope of the request and the time taken for decision-making in relation to each page of each document (less the first five hours of decision-making time, which are free of charge).

**Reduction or non-imposition of the charge**

12. Subsection 29(5) of the FOI Act provides that, without limiting the matters that an 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.

**Financial hardship**

13. Given that you have not provided information about whether imposition of the charge, or part of it, would cause you financial hardship, I have decided that there are no grounds to make a decision not to impose the charge for reasons of financial hardship.

**Public interest**

14. In determining whether to reduce or not impose the charge in accordance with section 29(5)(b) of the FOI Act, I am required to consider *‘whether the giving of access to the documents in question is in the general public interest or in the interest of a substantial section of the public’*. This means that there must be a benefit flowing generally to the public or a substantial section of the public from disclosure of the documents falling within scope of your request.
15. In considering the benefit that would flow to the public, I have reviewed the documents in question and considered the nature, content and context of the documents.
16. While the documents have relevance as part of the production of the COVIDdSafe App, which in itself is highly topical and of general public interest, there is already a great deal of information in the public domain. The government have released information to the media, provided testimony to the Senate Select Committee on COVID-19 and made the source code itself available for public scrutiny. The documents that fall within scope of this request were produced in the technical development of the COVIDSafe App and would not add to the public debate on this subject.
17. The length of time and the work in processing this application is disproportionate to the low value that might be gained by the public if these working documents were released.
18. I am therefore satisfied that payment of the charge should not be waived or reduced in the public interest.

**Options to proceed with your request**

19. In order for your request to proceed, you are required to respond to this notice in writing within 30 days advising one of the following options:
20. *Pay the charge*
- As the charge is more than \$100 you are required to pay a deposit of 25%, being \$222.04. You may, of course, elect to pay the charge in full, being \$888.15.

If you wish to make a payment, please indicate if you are paying the deposit or the charge in full by email to [foi@dta.gov.au](mailto:foi@dta.gov.au) and an invoice will be issued.

21. *Request an external review*

Under section 54L of the FOI Act, you may seek an external review of this internal review of charge decision by the Australian Information Commissioner. Your application must be made within 30 days of you receiving this notice.

The Australian Information Commissioner is an independent office holder who may review decisions of agencies and Ministers under the FOI Act. More information is available on the Australian Information Commissioner's website [www.oaic.gov.au](http://www.oaic.gov.au).

You can contact the Information Commissioner to request a review of a decision online or by writing to the Information Commission at:

Director of FOI Dispute Resolution  
GPO Box 5218  
SYDNEY NSW 2001

[Complaints to the Australian Information Commissioner](#)

You may complain to the Australian Information Commissioner about action taken in relation to your request.

Your enquiries to the Australian Information Commissioner can be directed to:

Phone 1300 363 992 (local call charge)  
Email [enquiries@oaic.gov.au](mailto:enquiries@oaic.gov.au)

There is no particular form required to make a complaint to the Australian Information Commissioner. The request should be in writing and should set out the grounds on which it is considered that the action taken in relation to the request should be investigated and identify the DTA as the relevant agency.

22. Alternatively, if you wish to withdraw your request you may do so in writing.
23. Should you have any queries concerning this matter, please do not hesitate to contact me at [foi@dta.gov.au](mailto:foi@dta.gov.au).

Yours sincerely

Peter Alexander  
Chief Digital Officer