



**Australian Government**  
**Department of Social Services**

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Mr John Smith

By email: [foi+request-6348-efb766c3@righttoknow.org.au](mailto:foi+request-6348-efb766c3@righttoknow.org.au)

Dear Mr Smith

**Freedom of Information Request 19/20-133**

I refer to our internal review of charges decision dated 19 June 2020.

As advised in this review decision, the charges notice sent to you on 3 June 2020 indicated:

*If you believe that payment of the charge would cause you financial hardship, please provide sufficient details of your financial circumstances to enable the decision-maker to make a well-informed decision...*

Having not received any evidence as to how the imposition of the charge would cause you financial hardship prior to the internal review, the department found there were no grounds to make a decision to waive the charge on this contention.

We note that upon receipt of this internal review decision, you provided documentation regarding your financial hardship contention.

As advised in our response to you on 22 June 2020, the department is not obliged to consider a second contention to waive the charge following the internal review process. However, in the interest of upholding the objects of the Act, the department has chosen to assist you by further considering your contention and providing a revised decision in this regard.

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**

My decision is to reduce the charge further to \$77.00 in response to your financial hardship contention. The reasons for my decision are outlined below.

**Reasons for decision**

I have taken the following material into account in making my decision:

- your initial request for documents;
- the notice of charge letter sent to you on 3 June 2020;
- your email contending that the charge should be waived;
- the internal review of charges decision;
- supporting documents provided by you;
- documents falling within the scope of your request;
- the Commonwealth 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).

### Financial hardship

On 19 June 2020, you provided documentation relating to your Jobseeker payments and a copy of your associated health care card. Given the narrow payments timeframe provided, we are unable to reach a comprehensive understanding of your financial situation however, note you have provided evidence of future payments.

In this regard, we note that you, as an existing recipient of this payment, have been receiving supplementary payments from Centrelink in response to the COVID-19 pandemic. These payments, being the Economic Support Payment and the Coronavirus Supplement, account for a considerable increase to support payments during this period.

The Economic Support Payment allows for two instalments of \$750. The first has been allocated to all eligible recipients, with the other due for distribution in July 2020.

The Coronavirus Supplement allows for regular fortnightly instalments of \$550, which has been in effect since 27 April 2020 and will continue to be allocated to eligible payment recipients for the foreseeable future.

In *'AY' and Australian Broadcasting Corporation* [2014] AICmr 7, the decision referred to the definition of financial hardship in guidelines issued by the Department of Finance for the purpose of debt waiver decisions:

*Financial hardship exists when payment of the debt would leave you unable to provide food, accommodation, clothing, medical treatment, education or other necessities for yourself or your family, or other people for whom you are responsible.*

Furthermore, paragraph 4.76 of the Guidelines outlines that:

*The mere fact that costs for FOI requests have not been budgeted for has been held to be a commercial decision, rather than a matter of a lack of funds.*

Having regard to your Right to Know website submissions, I note that you have submitted over 40 requests to various government departments and agencies in the last four months.

Whilst we acknowledge that any person can request any document held by the government, we would consider this a significant undertaking, and you, an informed and knowledgeable FOI applicant.

As such, I consider you are aware that government department and agencies are permitted to charge under the FOI Act for the processing of such requests.

I note that in your phone call to the department on 19 June 2020, you explained that you were undertaking research for an article regarding this topic. As such, I had regard to paragraph 4.99 of the Guidelines which states:

*... an agency may decide it is appropriate to impose an FOI charge where:*

- *the applicant can be expected to derive a commercial or personal benefit or advantage from being given access and it is reasonable to expect the applicant to meet all or part of the charge.*
- *the documents are primarily of interest only to the applicant and are not of general public interest or of interest to a substantial section of the public*

- *the information in the documents has already been published by an agency and the documents do not add to the public record...*

I consider all the above points are applicable in this instance.

As explained in the initial internal review decision, the department adheres to the Commonwealth Procurement Rules, with contracts and associated information published on AusTender. I consider there is sufficient information in the public domain in this regard and that the information you are seeking is to satisfy a personal interest, which was confirmed in your response to our review decision.

I note the department, prior to the provision of the charges notice to you, calculated the estimate modestly and pre-emptively discounted the charge. Paragraph 4.6 of the Guidelines discusses that the 'lowest reasonable cost' should be the objective of departments when considering charges. I would consider that given the modest inputs, pre-emptive discount and the department offering an additional review when there is no obligation to do so, the department has surpassed the requirements of the legislation.

Whilst I acknowledge that you are the recipient of assistance payments, based on the evidence you have provided both via email and verbally, I am not satisfied that the payment of the reduced charge would cause you financial hardship.

However, I am satisfied that a further reduction would benefit you and vary my initial internal review decision by further reducing the charge to \$77.00 (being a total discount of 30%).

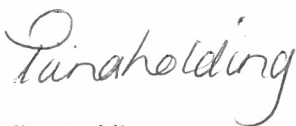
#### **Options to proceed with your request**

In order for your request to proceed, you are required to respond in writing to one of the following options before close of business on 5 August 2020.

- Pay the deposit of \$20.00 or the full charge of \$77.00. Please complete and return the attached authorisation form. Upon receipt of the form an invoice will be issued to you.
- Withdraw your request in writing to [foi@dss.gov.au](mailto:foi@dss.gov.au).
- Request an external review of this decision to impose the charge. See **Attachment A** for more information.

Should you have any queries concerning this matter, please do not hesitate to contact me.

Yours sincerely



Tiina Holding  
A/g Director  
Parliamentary, FOI and Annual Report  
Government and Executive Services Branch

6 July 2020

### External Review by the Australian Information Commissioner

Section 54L of the FOI Act gives you the right to apply directly to the Australian Information Commissioner (AIC) to seek a review of this decision.

If you wish to have the decision reviewed by the AIC you must apply for the review, in writing or by using the online merits review form available on the AIC's website at [www.oaic.gov.au](http://www.oaic.gov.au), within 60 days of receipt of this letter. To assist the AIC your application should include a copy of this decision and your contact details. You should also clearly set out why you are objecting to the decision.

You can also complain to the AIC about how an agency handled an FOI request, or other actions the agency took under the FOI Act.

Applications for review or complaint can be lodged in one of the following ways:

Online: [www.oaic.gov.au](http://www.oaic.gov.au)

Post: GPO Box 5218  
Sydney, NSW 2001

Phone: 1300 262 992 or +61 2 9284 9749 (international)

Email: [enquiries@oaic.gov.au](mailto:enquiries@oaic.gov.au)

In person: Level 3, 175 Pitt Street, Sydney, NSW 2000