



Administrative Appeals Tribunal

FOI ref: 2020/0048

20 July 2020

Mr John Smith

By email: foi+request-6349-23080a19@righttoknow.org.au

Dear Mr Smith,

Notice of charge decision following applicant contention that charge be reduced or not imposed (s 29(8))

I refer to your email of 11 July 2020 in which you explained the reasons for your request for a waiver of charges pursuant to section 29(5)(b) on the grounds of public interest and financial hardship (section 29(5)(a)).

I am an authorised officer under section 23(1) of the FOI Act to make decisions in relation to FOI requests.

I have decided not to vary the original assessment of the charge. The amount you are liable to pay is **\$1,226**.

The reasons for my decision under section 29(4) are set out below.

Reasons for my decision

Waiver on public interest grounds

Section 29(5)(b) of the FOI Act requires me to address 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.

In your email of 11 July 2020, you stated that:

...the recent outsourcing of public servant positions to external businesses is a matter that is of public interest. Multiple news articles have been written about the topic.

Additionally, there is a public interest in information about the AAT's unorthodox staffing practices; and internal discussions about those practices, by the officers responsible for those practices.



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Although you have asserted that labour hire usage throughout the APS is a matter of significant public concern and debate, it is not clear how the particular documents requested will assist in this regard. The documents you have requested relate to specific labour hire providers and staff of the AAT and do not appear sufficiently representative, or necessary, to throw light on any issue of public debate regarding labour hire services.

The AAT publishes figures in relation to contractors and consultants in its Annual Reports. The provision of individual contracts which contain personal, business and commercial information would be of little value to a substantial section of the public and do not add to any public discussion. Information contained in the particular documents requested, contracts and emails about individual arrangements, have not been a topic of public interest or discussion in current mainstream media and nor do the documents explain any particular decision made by the AAT in exercise of its functions.

Section 29(5)(a) of the FOI Act – Financial hardship

Under the FOI Act, I am required to consider whether the payment of the charge, or part of it, would cause financial hardship to you. Financial hardship is defined in the FOI Guidelines as:

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.

Although you have relied on this ground in your submission of 11 July 2020, I have placed little weight on this. This is because you have not provided evidence of financial hardship or an argument in support of this contention. In the absence of such evidence, I have concluded that the payment of this charge would not cause you financial hardship.

Your review rights

If you are dissatisfied with my decision in relation to the charge, you may apply for internal review or Information Commissioner review of the decision. We encourage you to seek internal review as a first step as it may provide a more rapid resolution of your concerns.

Internal review

Under section 54 of the FOI Act, you may apply in writing to the AAT for an internal review of my decision. The internal review application must be made within 30 days of the date of this letter.

Where possible please attach reasons why you believe review of the decision is necessary. The internal review will be carried out by another officer within 30 days.



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Information Commissioner review

Under section 54L of the FOI Act, you may apply directly to the Information Commissioner to review my decision. An application for review by the Information Commissioner must be made in writing within 60 days of the date of this letter, and be lodged in one of the following ways:

online:

https://forms.business.gov.au/smartforms/servlet/SmartForm.html?formCode=ICR_10

email: foidr@oaic.gov.au

post: GPO Box 5218 Sydney NSW 2001

More information about Information Commissioner review is available on the Office of the Australian Information Commissioner website. Go to <https://www.oaic.gov.au/freedom-of-information/reviews-and-complaints/information-commissioner-review/>.

Questions about this decision

If you have any questions or wish to discuss this decision with us, please contact me at foi@aat.gov.au.

Yours sincerely,

Skye M

Authorised FOI Officer (APS 6)

Attachments

FOI 2 – Information about reviews and complaints under the Freedom of Information Act