



2 August 2022

Our reference: LEX 68161

OpenWelfare

Only by email: [foi+request-8978-ba8edb5a@righttoknow.org.au](mailto:foi+request-8978-ba8edb5a@righttoknow.org.au)

Dear OpenWelfare

**Freedom of Information Request – Reconsideration of Charges**

I refer to your request under the *Freedom of Information Act 1982* (FOI Act), received by Services Australia (the agency) on 2 June 2022. You revised your request on 15 June 2022 as follows:

As of writing 520 out of 5230 (About 10%) of all Operational Blueprint pages feature a warning at the top:

"This procedure is under review. An Operational Message about this content exists."

eg

<https://operational.servicesaustralia.gov.au/public/Pages/job-seekers/001-09040120-01.html>

Normally, outside of Centrelink - reviews are made for reasons. This message is obtuse - as an outsider I don't fully understand what this message means.

Could you please, in an administrative fashion, not under the FOI act - briefly explain these messages and why they exist to me and the rest of the public on right to know? in addition -

I request under the Freedom of Information act 1982, copies of the following documents:

- \*Internal documents providing advice on how to use this message should that exist
- \*Written records of internal discussion (memo, email, etc) where a blueprint status was changed to "This procedure is under review. An Operational Message about this content exists", for the two most recent operational blueprints where this change has occurred with documentation to support them.

**Background**

On 29 June 2022, the agency notified you in accordance with section 29 of the FOI Act you were liable to pay a charge for the processing of your request.

The preliminary assessment of the charge was \$311.48 (**preliminary charge**), calculated as follows:

Search and retrieval time: 10 hours, at \$15.00 per hour:	\$150.00
Decision-making time (*after deduction of 5 hours): 8.07 hours, at \$20.00 per hour	\$161.48
<hr/>	
<b>TOTAL</b>	<b>\$311.48</b>

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

## Reconsideration of preliminary charge

On 3 July 2022, you responded to the preliminary charge notification, stating:

This project has no funding, I am contesting the charges entirely that they should not be imposed at all. Unfortunately I don't have the energy right now for lengthy argument so I'll just start and finish with the description of the operational blueprint from your page:

"The Operational Blueprint explains how we deliver services. It also holds reference material to support staff delivering those services. It contains all service delivery operating procedures in simple, clear language that can be accessed and understood by staff, customers and stakeholders. It allows for greater transparency and consistency when making service delivery decisions."

Key words by CUSTOMERS AND STAKEHOLDERS. If the public can't figure out what your 'operational messages' are then how are you meeting your goals. It's the public's right to know.

## My decision

I have reconsidered the preliminary charge and have decided to apply a 50% reduction on public interest grounds. The reasons for my decision are set out below.

## What I took into account

In reaching my decision I took into account:

- the preliminary charge
- your reconsideration request
- the documents falling within the scope of your request
- consultations with agency officers about:
  - search and retrieval time for the documents within the scope of your request
  - the agency's operating environment and functions
- the FOI Act
- the *Freedom of Information (Charges) Regulations 2019*, and
- the Guidelines issued by the Australian Information Commissioner under section 93A of the FOI Act (Guidelines).

## Relevant legislation

Subsection 29(4) of the FOI Act provides that where an applicant has notified an agency they contend a charge should be reduced or not imposed in relation to a request under the FOI Act, the agency may decide the charge is to be reduced or not imposed.

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

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, the agency must give the applicant written notice of the decision and of the reasons for the decision.

### **Reconsideration of the charge**

In order to complete a comprehensive reconsideration of the preliminary charge, I have assessed the calculations forming the basis of the preliminary charge and set out my conclusions below.

#### Search and retrieval time

In processing your FOI request, the agency conducted searches of its records for any relevant documents. These searches included consultations with the relevant business areas within the agency to identify, retrieve and collate the relevant documents.

The preliminary charge estimated 10 hours of search and retrieval time. The business areas that undertook the searches confirmed this was an accurate reflection of the time taken to complete this task.

Accordingly, I have determined the search and retrieval component of the preliminary charge is accurate and should not be revised.

#### Decision-making time

When calculating the decision-making time component of the preliminary charge, I estimated the time required to:

- examine the relevant pages
- make redactions to the pages for release where required, and
- prepare a statement of reasons.

The preliminary charge was based on an 8.07 hours of decision-making time (after deducting the first 5 hours of decision-making time which is free of charge), which includes 2 minutes to review each page within scope of the request, an additional 2 minutes per page to redact exempt material and the time required to draft a statement of reasons.

Having carefully reviewed the documents I am satisfied that 13.07 hours is a fair reflection of the time that would be required to make a decision on your request (before the reduction of 5 hours free processing time).

Please note that, on reviewing the documents for the purpose of reconsidering the preliminary charge, I found that the preliminary charge was calculated on the basis that your request captured 63 pages of material. However, as one of those pages has been released to you administratively, a decision will now be made on the 62 pages of material remaining in scope,

and I consider the inclusion of that page in the initial calculation did not materially affect the preliminary charge amount.

### **Reconsideration of the preliminary charge – other considerations**

#### Financial hardship

Paragraph 29(5)(a) of the FOI Act provides an agency must take into account whether payment of a charge, or part of it, would cause financial hardship to the applicant.

Paragraph 4.103 of the Guidelines provides:

An applicant relying on this ground could ordinarily be expected to provide some evidence of financial hardship. For example, the applicant may rely upon (and provide evidence of) receipt of a pension or income support payment; or provide evidence of income, debts or assets...

When assessing whether payment of the preliminary charge would cause financial hardship in this matter, I have considered paragraph 4.101 of the Guidelines which provides as follows:

Whether payment of a charge will cause financial hardship to an applicant is primarily concerned with the applicant's financial circumstances and the amount of the estimated charge. Financial hardship means more than an applicant having to meet a charge from his or her own resources. The decision in *'AY' and Australian Broadcasting Corporation* 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.

You have advised, "the project has no funding, I am contesting the charges entirely that they should not be imposed at all."

I have considered your reconsideration request outlining the absence of funding by Open Welfare. However, as you have not provided evidence that payment of the preliminary charge would result in financial hardship, I am have decided not to waive or reduce the preliminary charge on this ground.

#### The public interest

Paragraph 29(5)(b) of the FOI Act provides an 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. In other words, there must be a benefit flowing generally to the public or a substantial section of the public from disclosure of the documents in question. This requires me to consider the nature of the documents and the context of their release.

Paragraph 4.107 of the Guidelines provides:

An applicant relying on this ground should identify or specify the 'general public interest' or the 'substantial section of the public' that will benefit from this disclosure.

In your correspondence dated 4 May 2022, you noted the following:

The giving of access to the documents is in the general public interest or in the interest of a substantial section of the public as this information affects those on the Age Pension. And as of 2021 there are around 2.6 million Age Pension recipients in Australia.

Paragraph 4.107 of the Guidelines provides:

Matters to be considered include whether the information in the documents is already publicly available, the nature and currency of the topic of public interest to which the documents relate, and the way in which a public benefit may flow from the release of the documents.

The material you have requested (being internal documents on how Operational Messages are used and written records of internal discussion about how these are added to Operational Blueprints) is contained within documents intended for use by agency staff when delivering the agency's programmes and services.

In my view there is some public interest in releasing documents falling within the scope of the request as disclosure may promote access to government-held information and increase transparency of the government's administration of service delivery to some extent.

However, I have also taken into account the fact that the material you have requested is not publicly available and the documents contain other information regarding the agency's internal processes. To that end, I do not consider the information contained in the documents you have requested would meaningfully add to the public record on important aspects of the agency's decision making. Moreover, an explanation of what Operational Messages are has already been released to you administratively.

Therefore, I am not persuaded the charge should be waived in full.

However, having considered the factors identified above, I am satisfied in these circumstances that it is appropriate to reduce the preliminary charge by 50% on public interest grounds.

Accordingly, I have decided to impose a charge of **\$155.74** to process your request (**Reconsidered Charge**).

### **Conclusion**

I am satisfied the search and retrieval time and the estimated decision making time set out in the preliminary charge was accurate.

While I am not satisfied the charge should be reduced or waived on the grounds of financial hardship, I have decided to reduce the preliminary charge by 50% on public interest grounds.

I have therefore decided to impose a Reconsidered Charge of **\$155.74**.

### **Required Action**

If you would like Services Australia to continue processing your request, you must notify Services Australia in writing within 30 days of receiving this notice that you:

- a) agree to pay the Reconsidered Charge (deposit or in full), or

b) seek an internal review of the Reconsidered Charge.

Alternatively, you may wish to seek an external review by the Information Commissioner or you may wish to withdraw your request for access to documents.

Should you wish to withdraw your request, please confirm this in writing.

Further information on options a) and b) is provided below.

Please note the payment of a charge does not guarantee access to documents, in full or in part.

### **Option a) - pay the charge**

As the Reconsidered Charge exceeds \$25, you are required to pay a deposit of **\$38.94** within 30 days of receiving this notice. You may, of course, elect to pay the charge in full at this point.

You may select from one of the following payment methods:

1. Online payment via Government EasyPay - follow [this link](#) and enter the relevant details. You will need your FOI LEX reference number, **LEX 68161**, or
2. Cheque made out to the Collector of Public Monies and posted to Freedom of Information, Services Australia, PO BOX 7820, Canberra BC, ACT 2610, or
3. Money order made out to the Collector of Public Monies and posted to Freedom of Information, Services Australia, PO BOX 7820, Canberra BC, ACT 2610.

If you elect to pay the Reconsidered Charge, please email [FOI.LEGAL.TEAM@servicesaustralia.gov.au](mailto:FOI.LEGAL.TEAM@servicesaustralia.gov.au) to advise us of your payment. Please quote reference number **LEX 68161** in this correspondence.

### **Option b) - seek review**

If you disagree with the decision to impose the Reconsidered Charge, or the amount of the Reconsidered Charge, you can ask for a review. There are two ways you can do this. You can ask for an internal review from within Services Australia, or an external review by the Office of the Australian Information Commissioner. See [Attachment A](#) for more information.

### **Time limits for processing your request**

Section 31 of the FOI Act provides that where a notice is sent to an applicant regarding the payment of a charge in respect of a request, the time limit for processing the request is suspended from the date the notice is received until either:

- a) the day following payment of the charge (in full or the required deposit) or
- b) if applicable, the day following the notification to the applicant of a decision not to impose the charge.

### **Address for correspondence**

Please send all correspondence regarding your FOI request to me by email to [FOI.LEGAL.TEAM@servicesaustralia.gov.au](mailto:FOI.LEGAL.TEAM@servicesaustralia.gov.au).

**Further assistance**

If you have any questions please email [FOI.LEGAL.TEAM@servicesaustralia.gov.au](mailto:FOI.LEGAL.TEAM@servicesaustralia.gov.au).

Yours sincerely

Leanne  
Authorised FOI Decision Maker  
Freedom of Information Team  
Information Access Branch | Legal Services Division  
Services Australia



**Attachment A**

**INFORMATION ON RIGHTS OF REVIEW**

***FREEDOM OF INFORMATION ACT 1982***

**Asking for a full explanation of a Freedom of Information decision**

Before you ask for a formal review of a freedom of information decision, you can contact us to discuss your request. We will explain the decision to you. This gives you a chance to correct misunderstandings.

**Asking for a formal review of a Freedom of Information decision**

If you still believe a decision is incorrect, the FOI Act gives you the right to apply for a review of the decision. Under sections 54 and 54L of the FOI Act, you can apply for a review of an FOI decision by:

- an Internal Review Officer in the agency, and/or
- the Australian Information Commissioner.

There are no fees for these reviews.

**Applying for an internal review by an Internal Review Officer**

If you apply for internal review, a different decision maker to the agency delegate who made the original decision will carry out the review. The Internal Review Officer will consider all aspects of the original decision and decide whether it should change. An application for internal review must be:

- made in writing
- made within 30 days of receiving this letter, or
- sent to the address at the top of the first page of this letter.

You do not need to fill in a form. However, it is a good idea to set out any relevant submissions you would like the Internal Review Officer to further consider, and your reasons for disagreeing with the decision.

**Applying for external review by the Australian Information Commissioner**

If you do not agree with the original decision or the internal review decision, you can ask the Australian Information Commissioner to review the decision.

If you do not receive a decision from an Internal Review Officer in the agency within 30 days of applying, you can ask the Australian Information Commissioner for a review of the original FOI decision.

You will have 60 days to apply in writing for a review by the Australian Information Commissioner.



You can **lodge your application**:

Online: [www.oaic.gov.au](http://www.oaic.gov.au)  
Post: Australian Information Commissioner  
GPO Box 5218  
SYDNEY NSW 2001  
Email: [enquiries@oaic.gov.au](mailto:enquiries@oaic.gov.au)

The Office of the Australian Information Commissioner generally prefers FOI applicants to seek internal review before applying for external review by the Australian Information Commissioner.

**Important:**

- if you are applying online, the application form the 'Merits Review Form' is available at [www.oaic.gov.au](http://www.oaic.gov.au).
- if you have one, you should include with your application a copy of the Services Australia decision on your FOI request
- include your contact details, and
- set out your reasons for objecting to the agency's decision.

**Complaints to the Australian Information Commissioner and Commonwealth Ombudsman**

***Australian Information Commissioner***

You may complain to the Australian 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 Australian Information Commissioner must be made in writing. The Australian Information Commissioner's contact details are:

Telephone: 1300 363 992  
Website: [www.oaic.gov.au](http://www.oaic.gov.au)

***Commonwealth Ombudsman***

You may also complain to the Commonwealth 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 Commonwealth Ombudsman may be made in person, by telephone or in writing. The Commonwealth Ombudsman's contact details are:

Phone: 1300 362 072  
Website: [www.ombudsman.gov.au](http://www.ombudsman.gov.au)

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