



Freedom of information – Charges

October 2010

Australian Government agencies and ministers may impose a charge for the work involved in providing access to documents you request under the *Freedom of Information Act 1982* (the FOI Act). These charges are imposed in accordance with the FOI Act and the *Freedom of Information (Charges) Regulations* (the Charges Regulations). There is no charge if you request access to your personal information. How the charge is calculated should be clearly explained to you. You can ask for the charge to be reduced or for the documents to be provided for free. The estimate can be re-calculated if you change the scope of your request for access. You can ask the agency or minister to review their decision on charges, and you can also ask the Information Commissioner to review the decision.

Charges

An agency or minister may impose a charge on an FOI applicant in accordance with the FOI Act and Charges Regulations. The charge should fairly reflect the work involved in providing access to documents on request. A charge cannot be used to discourage someone from exercising their right of access under the FOI Act.

It's my personal information – is there a charge?

There is no charge for documents that contain your personal information. You may be asked to identify yourself so the agency can ensure the documents relate to you.

In many cases a person can access their own personal information without needing to make an FOI application. You should talk to the agency about this before you make an FOI application.

How is the charge calculated?

The Charges Regulations specify different rates for the various activities involved in processing a request. The main charges are:

- Search and retrieval - \$15 per hour
- Decision making - \$20 per hour

- Photocopy - 10c per page
- Transcript - \$4.40 per page
- Supervised inspection - \$6.25 per half hour
- Delivery - cost of postage or delivery.

There is no charge for making an FOI request to an agency or minister for access to a document, or for amendment or annotation of a personal record.

The first five hours of decision making time is free for all applicants.

Can I ask for the charge to be reduced?

An agency can reduce or waive (that is, decide not to impose) a charge. You can ask for charges to be reduced or waived when you make your FOI access request, or at any later time.

The agency will consider any reason you give for seeking a reduction or waiver. The two most common reasons for doing so are that payment of a charge would cause financial hardship, or disclosing the documents would be in the public interest.



It is important that you explain or provide evidence to support your claim for waiver or reduction. To support a claim that a charge will cause you financial hardship you might, for example, provide a copy of a pension or welfare card. If you claim that disclosure would be in the public interest, you might explain how the documents will be used in public research, in preparing a submission to a parliamentary inquiry, or in advancing public debate on a topic of current importance.

An agency is not obliged to waive or reduce a charge, even if it accepts your reason for requesting it. In particular, an agency can decide to impose a charge even though it would cause you financial hardship or disclosure would be in the public interest.

Payment

When will I be notified of a charge?

Before requiring you to pay a charge the agency must send you a notice setting out an estimate and the basis for the calculation. The agency can require you to pay a deposit of 25% of the total estimate, or \$20 if the estimate is less than \$100.

You will be given the opportunity to respond before a charge is imposed or a deposit is paid. You can respond by –

- agreeing with the estimate and paying a deposit as required by the agency
- disputing the amount of the estimated charge or the way it was calculated
- requesting the agency to reduce or waive the charge
- changing the terms of your FOI request to reduce the work required to process it, or
- withdrawing your FOI request.

The agency must give you at least 30 days to respond. If you do not respond before the date set out in the estimate letter, the agency may conclude you do not wish to continue with the FOI access request and consider it withdrawn. This means your access request will not be processed.

If you dispute the estimated charge or ask for it to be waived or reduced, the agency must notify you of its decision within 30 days. Similarly, if you change the terms of your FOI request the agency will re-calculate the estimate of charges and give you a new estimate for your comment.

When should I pay?

If an agency requires a deposit from you, you must pay it within 30 days or a further period allowed by the agency. The agency can defer work on your FOI request until the deposit is paid or the agency decides to waive the charge following a request from you.

You can pay the full amount of the estimated charge either at that stage, or later when the agency makes its decision on your access request. In deciding to grant access, an agency can require you to pay a higher charge if more work was involved than the agency had anticipated, except where the agency does not give you full access to all the documents you sought. The FOI Act requires you to pay any charge in full before you can have access to any documents, except where a charge relates to supervising your inspection of documents.

Any deposit you have paid is not refundable, except in three circumstances: if the agency decides to reduce or waive a charge following a request from you; if the agency, after processing your FOI request, decides that the charge payable is less than the deposit you have paid (in which case you will receive a partial refund); or if the agency fails to make a decision on your



request within the statutory time limit, including any extension granted by the Information Commissioner. If you paid a deposit and the agency decides not to grant you access to any document, you are not entitled to a refund of the deposit.

Can I get an invoice for the charge?

Yes. You can ask the agency to issue an invoice for a charge it has imposed.

Disputing a charge

When an agency notifies you of an estimated charge, you can ask the agency to review the decision to impose the charge, or to reduce or waive the charge. Two common grounds for doing so are that paying the charge would cause you financial hardship, or you believe that disclosure of the documents would be in the public interest.

You can also seek review of an agency decision to impose a charge, either by the agency (internal review) or by the Information Commissioner. There is no application fee for internal review or Information Commissioner review. For more information on the review process, see **FOI Fact Sheet 12 Freedom of information – Your review rights**.

Getting the documents

I have the agency's decision – when do I get the documents?

You will be given access to the documents when:

- you have paid the charges (including any outstanding balance) and
- any rights a third party has to seek a review of the decision have run out.

See **FOI Fact sheet 11 Freedom of information – Your rights if information about you or your business is requested** for more information about when a third party can seek review.

The information provided in this fact sheet is of a general nature. It is not a substitute for legal advice.

For further information

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