



Glenn Hamiltonshire

Via email: foi+request-11714-a3c96b81@righttoknow.org.au

Dear Glenn Hamiltonshire

Your Freedom of Information request – Charges decision

I refer to your request, dated 18 July 2024 and received by the Department of Agriculture, Fisheries and Forestry (**department**) on 18 July 2024 for access under the *Freedom of Information Act 1982* (Cth) (**FOI Act**) to the following documents:

'I request access to the Style Guides/Brand Guides/Writing Guides currently used for the Department of Agriculture Fisheries & Forestry'

My decision

I have decided to affirm the decision to impose a charge of \$106.22.

The reasons for my decision, including the relevant sections of the FOI Act, are set out in **Attachment A**.

Payment details

If you would like the department to continue processing your request, you must respond to the department within 30 days after receiving this notice. If you do not respond within 30 days, your request will be taken to have been withdrawn and no further action will be taken by the department.

As the charge exceeds \$100, you are required to pay a deposit of \$26.55. You may, of course, elect to pay the charge in full at this point.

Payment can be made by direct deposit to:

A/C Name: DAFF Departmental Account
Branch: London Circuit, Canberra
Bank: Reserve Bank
BSB: 092 009
A/C No. 111 698
ABN No: 34 190 894 983

Please include the FOI reference number LEX-31964 in the subject field, and send an email with notification of payment to foi@aff.gov.au as soon it has been made.

If you are not able to pay by direct deposit, please contact the department for assistance.

Time periods of 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 applicant was notified of the charge until:

- the day after the charge (or deposit) is paid; or
- if applicable, where a subsequent review decision has been provided, the day after:
 - a charge or deposit has been paid; or
 - the applicant is notified of a decision to not impose the charge.

You can ask for a review of my decision

If you wish to seek an internal review, you must apply to the department within **30 days** after the day you are notified of this decision. An application for internal review must be made in writing by post to the FOI Officer or email to foi@aff.gov.au.

Alternatively, you may apply directly to the Office of the Australian Information Commissioner (**OAIC**) to review my decision. An application for review by the Information Commissioner must be made in writing within **60 days** after the day you are notified of this decision. You may apply for an OAIC review through the following [link](#). You can also make a [complaint](#) to the Information Commissioner if you have concerns about how the department handled your request.

You can find information about requesting a review, making a complaint, and other information about FOI on the OAIC website www.oaic.gov.au or phone the OAIC on 1300 363 992.

You can also make a complaint to the Commonwealth Ombudsman if you have concerns about how the Department handled a request for documents under the FOI Act, or took any other action under the FOI Act. There is no fee for making a complaint to the Commonwealth Ombudsman.

Information about making a complaint to the Commonwealth Ombudsman is available in its website www.ombudsman.gov.au or phone the Ombudsman on 1300 362 072.

Further assistance

If you have any questions, please email foi@aff.gov.au.

Yours sincerely



Carmel Curran
Assistant Secretary
Communication and Media Branch
Enterprise Strategy and Governance Division
2 September 2024

REASONS FOR DECISION

What you requested

I request access to the Style Guides/Brand Guides/Writing Guides currently used for the Department of Agriculture Fisheries & Forestry'

What I took into account

In reaching my decision, I took into account:

- your request dated 18 July 2024;
- the preliminary assessment of charges dated 2 August 2024;
- your reply dated 6 August 2024;
- the documents that fall within the scope of your request;
- information about:
 - the nature of the documents; and
 - the department's operating environment and functions;
- guidelines issued by the Australian Information Commissioner under section 93A of the FOI Act (**Guidelines**);
- the *Freedom of Information (Charges) Regulations 2019* (**Regulations**); and
- the FOI Act.

Reasons for my decision

I am authorised to make decisions under section 23(1) of the FOI Act.

I have decided to affirm the charge of \$106.22. My findings of fact and reasons for this decision are discussed below.

Preliminary assessment of charge

On 2 August 2024, I wrote to you to advise you that I had decided to impose a charge of \$106.22 for processing your request.

My preliminary assessment of that charge was calculated as follows:

Search and retrieval time: 2.5 hours at \$15.00 per hour	\$37.50
Decision-making time: \$20.00 per hour	
Examining pages, redacting and scheduling documents	\$108.72
Writing statement of reasons	\$60.00
Deduction of 5 hours decision-making time*	-\$100.00
TOTAL	\$106.22

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

Your contentions

On 6 August 2024, you contended that the charge was wrongly assessed and also requested a waiver of the charge for processing your request under the FOI Act. Specifically, your correspondence provided (with hyperlinks to other Right to Know requests excised):

'In making my request, I note that the decision to calculate a charge for a department's style guide/related documents is something which has been repeatedly provided by other similarly situated departments, and has been made public on the Right To Know website by other users, showing that zero charge has been generated, or any charge that *would* be generated is well within the free-5 hour charge timeline.

These include:

Example 1- Home Affairs: [hyperlink]

Example 2- Defence: [hyperlink]

Example 3- Finance: [hyperlink]

Example 4- Treasury: [hyperlink]

Given that these other departments were able to process functionally identical requests from other Right To Know users, I see it as being entirely inconsistent with the principles of the Freedom of Information Act to impose charge.

This appears to be uncomfortably common for the Department of Agriculture Fisheries & Forestry, to generate or estimate unreasonably lengthy processing times, far higher than other departments. I believe this is a wrongful process, and should be repeated, with the aim of eradicating any charge for a request like this.

If it's good enough for Defence, Treasury, Finance, and Home Affairs, surely it's good enough for Agriculture Fisheries & Forestry.'

Assessment of the charge

I note your contention that the charge has been wrongly assessed. As set out above, my preliminary assessment of the charge was calculated using the amounts set by the Regulations and in accordance with the provisions in the FOI Act. Further, the search and retrieval time was reduced in accordance with the lowest reasonable cost objective under the FOI Act. I also note that five hours of decision making time has been accounted for cost-free in the costs assessment, with the number of pages and documents covered by your request necessitating further decision making time. You have not elaborated further on why you contend the charge was wrongly assessed. I would also note that other agencies releasing similar documents for no charge in response to a Right to Know request does not set a standard which would bind the department. I consider the charge has been correctly assessed and do not consider this a basis to waive or reduce the charge.

Financial hardship

Under section 29(5)(a) of the FOI Act, I am required to consider whether payment of the charge would cause financial hardship to you.

Paragraph 4.101 of the Guidelines relevantly provides:

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 and your family, or other people for whom you are responsible.

The Guidelines further provide that an applicant relying on the grounds of financial hardship would ordinarily be expected to provide some evidence of financial hardship, such as receipt of an income support payment or evidence of income, debts or assets.

As you have not provided evidence in relation to your financial status, I am not satisfied that the payment of the charge would cause financial hardship to you. I do not consider this to be a reason to waive or reduce the charge.

Public interest

Under section 29(5)(b) of the FOI Act, I am required to consider whether giving access to the documents would be in the general public interest or the interest of a substantial section of the public.

Paragraph 4.107 of the Guidelines relevantly provides:

An applicant relying on s 29(5)(b) should identify or specify the 'general public interest' or the 'substantial section of the public' that would benefit from this disclosure. This may require consideration both of the content of the documents requested and the context in which their public release would occur. Matters to be considered include whether the information in the documents is already publicly available, the nature and currency of the topic of the public interest to which the documents relate, and the way in which a public benefit may flow from the release of the documents.

I note that you have not made any specific submissions in relation to the public interest you may see in the documents you have requested. Whilst I note that these documents are not presently publicly available, I do not consider that the documents in the scope of your request would contribute meaningfully to a public benefit, noting that a style guide may be used for a document of public import but is not, of itself, a document that would have any public benefit from its release. Having considered the FOI Act and the Guidelines, I am not satisfied on balance that it would be in the general public interest or the interest of a substantial section of the public to give access to the documents. As such, I do not consider this to be a reason to waive or reduce the charge.

Conclusion

For the reasons given above, I have decided to affirm the charge.