



**FEDERAL COURT OF AUSTRALIA
PRINCIPAL REGISTRY**

LEVEL 16
LAW COURTS BUILDING
QUEENS SQUARE
SYDNEY NSW 2000

[Insert date]

[Insert name of FOI applicant]

By email: [insert email address]

Dear Sir/Madam,

Request for access to documents under the *Freedom of Information Act 1982*

I acknowledge receipt of your request, dated [insert date] and communicated by email to External.FOI@fedcourt.gov.au, for access to documents under the *Freedom of Information Act 1982* (Cth) (**FOI Act**).

A preliminary assessment has been undertaken of your Freedom of Information (**FOI**) request and the Court has determined that you are liable to pay a charge.

The charges applicable to your request are set at the following rates by the *Freedom of Information (Charges) Regulations 2019* (**Charges Regulations**):

Item	Applicable charge
Search and retrieval: time spent in searching for or retrieving the document requested	\$15.00 per hour
Decision-making: time spent in deciding whether to grant, refuse or defer access to the document or to grant access to a copy of document with deletions, including time spent: <ul style="list-style-type: none">• In examining the document; or• In consultation with any person or body; or• In making a copy with deletions; or• In notifying any interim or final decision on the request.	\$20.00 for each hour after the first 5 hours
[Insert any additional applicable charges]	

On the basis of the applicable charges outlined above, an estimate of your charge is set out in the following table [the descriptions, hours and charges in the table below are all examples]:

Item	Description	Estimated hours	Estimated charge
Search and retrieval	<ul style="list-style-type: none"> Searches conducted by staff of FOI team and staff of Human Resources team including searching inboxes, shared drives and electronic document & records system. 	2 hours	\$15.00 x 2 = \$30.00
Decision-making	<ul style="list-style-type: none"> Examination of documents retrieved Consulting one individual in relation to personal information Deciding to grant or refuse access to documents requested Preparing reasons for decision Making a copy of document with deletions 	7.5 hours	\$20.00 x 2.5 = \$30.00 (no charge for first 5 hours)
[Insert any additional items]			
TOTAL ESTIMATED CHARGE			\$80.00
DEPOSIT PAYABLE			\$20.00

[Insert any additional information in relation to the calculation of charges set out above that might better enable the applicant to understand the charges].

Please be aware that the estimated charges provided in the table above are an estimate only. Following the processing of your FOI request, the actual charge may be higher as it is not possible to know the precise amount of time that staff of the Court will spend searching for and retrieving documents and/or making a decision in relation to documents you have requested.

Deposit

In accordance with the FOI Act and Charges Regulations, the Court requires you to pay a deposit before any further work on your FOI request is undertaken. As outlined in the table above, the deposit payable for your FOI request is \$20.00. This accords with s 12(2) of the Charges Regulations which requires that a deposit must not exceed \$20.00 when the preliminary assessment of the charge is more than \$25.00 but less than \$100.00 [adjust this wording as necessary depending on the amount of deposit payable].

An invoice for the deposit is enclosed with this letter and includes details as to how payment can be made. As noted above, the Court will not undertake any further work on your FOI request until the deposit is paid. Once the deposit is paid, work on your FOI request will recommence and the statutory processing period will re-continue from the date of payment.

Please note that the deposit is not refundable, unless: you contest the charge and the Court either decides not to impose a charge or to reduce the charge to an amount lower than the deposit paid, the Court sets a final charge after making a decision on the FOI request that is lower than the deposit paid, or the Court fails to make a decision on your FOI request within the applicable statutory processing period.

[If no deposit is payable, replace the three paragraphs above with the following: Subsection 12(2) of the Charges Regulations only allows a deposit to be charged in circumstances where the agency's preliminary assessment of the charge exceeds \$25.00. Having regard to the total estimated charge for processing your FOI request, and in accordance with the FOI Act and Charges Regulations, the Court does not require you to pay a deposit.]

Right to contest charge

Under s 29(1)(f) of the FOI Act, you may make an application to contest the charge if you believe it has been wrongly assessed, or should be reduced or not imposed. In accordance with s 29(f), your application contesting the charge must:

- Be made in writing;
- Be made to the Court within 30 days of receiving the notice of charge; and
- Provide reasons for contending that the charge has been wrongly assessed, or should be reduced or not imposed.

In considering whether or not to reduce, or not impose, the charge, the Court must take into account the following factors under s 29(5) of the FOI Act:

- Whether payment of the charge would cause financial hardship to you; and
- Whether giving access to the documents requested is in the general public interest or in the interest of a substantial section of the public.

However, the Court can also take other matters into account, apart from financial hardship and the public interest.

In relation to any claim you make that the imposition of the charge will cause financial hardship to you, you should consider providing evidence regarding the financial hardship. This will better enable the Court to assess whether the charge will cause financial hardship to you.

Your obligations

Under s 29(1)(f) of the FOI Act, you must notify the Court in writing within 30 days of receiving this notice of charge that you:

- agree to pay the charge; or
- wish to contest the charge; or
- withdraw your FOI request.

In accordance with s 29(2) of the FOI Act, if you fail to respond to this notice of charge in writing within 30 days, your FOI request will be taken to have been withdrawn.

In circumstances where you pay the applicable deposit for your FOI request and the Court makes a decision on your FOI request, please note that, in accordance with s 11A(1) of the FOI Act and s 11(1) of the Charges Regulations, you are not entitled to access any documents to which the Court has granted you access until all applicable charges have been paid.

[If no deposit is payable, replace the paragraph above with the following: Please note that, under s 31(2) of the FOI Act, the processing period for your FOI request will temporarily cease on the day you receive this notice of charge and will not recommence until the earliest of the

following occurs: you pay the charge (in the circumstances set out in either ss 31(2)(a) or 31(2)(b)) OR, pursuant to s 29 of the FOI Act or following a review under the FOI Act, a decision is made by the Court not to impose a charge (see s 31(2)(c)).]

Yours sincerely,

FOI Officer