

MEMORANDUM FOR Senior Management Group

COPIED TO Communications Committee (for information)

FROM Angus Barclay, External Communications Adviser

DATE 13 November 2015

SUBJECT Charging for OIA responses

FOR YOUR Approval

This paper seeks a decision from SMG for the Bank to introduce charges for information provided in response to Official Information requests.

The Official Information Act (the OIA) allows us the option of charging requesters for retrieving and preparing the information that we send to them, as noted in a 23 October 2015 discussion note for SMG [Charging for OIA requests – documentum #6248684v1.12](#)

As a result of the discussion note, SMG asked me to:

- sound out views from the Office of the Ombudsman relating to charges, and
- find out about current practice within the Treasury for charges.

View from Ombudsman's Office

I discussed the charging proposal with Sarah Kember, a Principal Advisor in the Policy and Professional Practice Advisory Group at the Office of the Ombudsman. I found her replies encouraging, in terms of understanding what the Bank is trying to achieve with charging, and in terms of the specific details proposed for our charging regime. Ms Kember advises:

- That the Office of the Ombudsman considers charging a valid tool for management of responses to OIA requests, [among others, noting that it is a requirement to consider charging as an alternative before relying on section 18\(f\) of the OIA to refuse a request \(substantial collation or research\) - see section 18A OIA.](#)
- As long as departments follow the guidelines published by the Ministry of Justice, [keeping in mind the reasonableness of a charge in the circumstances of the case,](#) they're unlikely to have issues if a requester complains to the Ombudsman about charges.
- Charges for requesters who make a large volume of requests in a short period of time may be unnecessary if we decide as a matter of policy to charge for requests that have more than one hour of chargeable time. This is because the guidelines allow us to aggregate multiple requests from one source into a single request for the purposes of charging, where the multiple requests occur within an 8 week period.

Ms Kember said that [the Ombudsman-Ombudsmen generally consider both that it reasonable for agencies to charge in accordance with the guidelines and that charges imposed within those guidelines are likely also to be reasonable.](#) She said it is surprising that ~~thinks the standard charging regime set out in the Ministry of Justice guidelines is reasonable and that she is surprised a lot more departments-agenciess~~ don't make greater use of charging as one of the tools available to manage their overall workload and processes for responses [where this would be helpful.](#)

Ms Kember was ~~intrigued~~ interested and happy to comment on ~~theto~~ [see the](#) 23 October 2015 SMG discussion note, and particularly [to see](#) the appendix that lists charging practices and policies in place for other entities.

Practice at the Treasury

The Treasury has a full-time unit of four people to manage and process OIA requests. My functional counterpart at the Treasury for OIA responses, Katharine Gebbie, told me that other than one instance the Treasury has not charged for OIA responses, taking the view that it generally isn't worthwhile to do the timekeeping and administration required. This is because many requests would be exempted from charging. Politicians and their researchers are exempt under the Ministry of Justice guidelines and the Treasury's communications team argues that media should be exempted due to the likelihood of negative publicity and relationship damage. The Treasury imposed charges several years ago for a request by Professor Jane Kelsey, and used the revenue to hire a temp to process the response to the request.

Proposal for Reserve Bank to charge

If SMG agrees, the Bank can start charging for information provided in response to Official Information requests, using the following guidelines.

Impose a charge for responses:

- Only where a decision has been made to release information in response to a request.
- To large-scale requests that involve more than one hour of chargeable work. Initial management of a large request (prior to charging) should be by asking the requester to refine the request to a smaller scale.
- To requesters who make a large volume of requests in a short period of time – i.e. a rolling 2-month average of more than 2 requests per month.

Don't charge for responses:

- To MPs and political party researchers.
- To requesters who make only occasional or intermittent requests.
- Where no information exists to release.
- Where a decision is made to not release information. (There is no basis for charging if information is not provided).

If we decide to impose a charge, use the guidelines and charges established by the Ministry of Justice – i.e. first hour free then \$38 per half hour and 20 pages free then 20c per page for copying. Formally advise the requester of:

- Our decision to release information.
- The estimated total amount of proposed charges.
- The basis for proposed charges.
- The requester's right to seek an Ombudsman's review of the proposed charges.

Other matters

Other matters included in the 23 October discussion note would become part of Bank policy for OIA responses. These include:

- The management of charging as part of the OIA response process.
- What work is chargeable, and what isn't, when preparing a response to an OIA request.

- Publishing the charging policy on our website.
- Remission of charges in cases of financial hardship.
- A template letter and estimate to requesters.
- Timesheets to record usage of resource for an OIA response.

