

Charge estimated in accordance with the CRI's charging policy

Legislation	Official Information Act 1982, s 15(2)
Agency	National Institute of Water and Atmospheric Research
Ombudsman	Sir Brian Elwood
Case number(s)	W4504
Date	September 1993

Charge levied by National Institute of Water and Atmospheric Research (NIWA)—Crown Research Institutes' policy on charging—reasonableness of recovery of actual retrieval costs—charge reasonable

Under section 15(2) of the OIA where holders of official information decide to make information available in response to a request under Part 2 of the Act, a charge may be fixed for the supply of that information, provided the charge is 'reasonable'. Accordingly, what has to be established in the course of an investigation and review of a charge is whether, in the circumstances of the case and irrespective of any guidelines which may have been issued, the charge is reasonable.

Charges fixed in accordance with the Government guidelines on charging have, in most cases, been found to be reasonable. By and large the guidelines reflect factors considered relevant in assessing the reasonableness of charges fixed for the supply of official information. However, in this case, NIWA advised that its policy on charging was considered by Government at the time the Crown Research Institutes (CRIs) were established. At that time, Cabinet adopted a recommendation of the Ministerial Science Task Group that:

- i. CRIs shall provide access to specified national databases and reference collections substantially paid for from the public purse not excluding the points under (ii) below and consistent with providing benefit to New Zealand;*
- ii. in providing this access [relevantly]:*

... 2. the costs of actual retrieval of information from databases and collections be recovered...

Accordingly, in this case, it was necessary to determine whether the charge estimated in accordance with the CRIs' charging policy was reasonable in terms of the OIA.

The information at issue comprised the recorded wind speed and direction at 9.00 am, 3.00 pm and 6.00 pm in a particular locality over a nine month period. NIWA explained that the estimated charge of \$70.00 covered:

- the cost of computer time for extracting the information, estimated at not less than 15 minutes;
- associated clerical work (covering letter, filing, invoicing and receipting the charge), estimated at not less than 15 minutes; and
- other disbursements, such as database access charges, GST etc.

In considering the reasonableness of this charge, regard was had to the fact that at the time the CRIs were established the Government decided that the transfer of scientific databases and reference collections to CRIs was to be subject to covenants on their operation and disposal and Cabinet adopted the operating principles for providing access to these databases and collections as recommended by the Ministerial Science Task Group. Cabinet had thus indicated what it considered as reasonable charges for access to official information of the nature at issue in this case. A further factor taken into account was that NIWA receives no direct government funding, but funds itself through contracts. In the particular circumstances of this case, it was concluded that the charge for the information at issue was not unreasonable.

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