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## Question on Notice from Integrity and Oversight Committee

Ryan BATCHELOR: Just briefly, you touched on fees again in your opening. Can you elaborate a little bit more on your assessment of the current fee regime and what you think we could look at by way of reform?

Steven PIASENTE: I do not think we made recommendations in relation to that other than that it probably should be increased. I am happy to take that on notice and see if my team have any other thoughts around how that might be better. Obviously, with the application fee there would be a waiver if somebody meets a particular hardship, which I do not think is well defined from my research – a lot of effort goes into that – acknowledging again there is a right for people to obtain their own details. I think it is probably the more complex ones, where it actually takes a lot more time and effort, where you might then need to have some reconsideration of how people might contribute to that, and doing research into defining that information might be of value.

Ryan BATCHELOR: Any ideas your team have and can give to us on notice would be greatly appreciated.

Thanks, Chair.

### **Answer:**

We acknowledge that the object of the Freedom of Information Act 1982 (FOI Act) is to extend as far as possible the right of the community to access information held by Victorian agencies, thereby facilitating, and promoting the disclosure of information promptly and at the lowest reasonable cost.

Defining the hardship requirements within the FOI Act would enhance the consistency of granting fee waivers for those experiencing financial hardship. It is also essential to address potential misuse of the current system by corporate entities that might circumvent application fees by using a healthcare card belonging to a private citizen. While it is common practice to accept hardship applications from concession cardholders, holding such a card does not always indicate that the payment of a \$32.00~ application fee would cause financial hardship to the applicant.

In our submission we advised that Council has been cautious about charging access fees to ensure information remains accessible. However, we acknowledge that charging application fees and access charges reflective of the actual cost of administering the Act could be prohibitive for many community members. This approach does shift a substantial and potentially unlimited financial and resource burden onto councils and other government agencies.

We also propose that the consideration for waiving an application fee due to hardship should be consistent with the application of access charges as currently officers are required to assess waiving the application fee (section 17 of the Act) differently to access charges (section 22 of the Act) depending on whether it relates to their own personal affairs. In addition, OVIC's FOI Guidelines (section 22, 1.38) sets out that payment of the application fee does not mean that the applicant should be made to pay access charges based on OVIC's direction for a broad interpretation of 'impecunious'.

To prevent situations where an entire application is processed and the applicant subsequently chooses not to pay the balance of access charges, we suggest introducing the prepayment of all estimated access charges. This measure could prevent the unnecessary use of resources without achieving any outcome. Although a similar process exists for estimated access charges exceeding \$50.00, requests falling under this threshold may not be adequately addressed.

In summary, possible opportunities to improve the current FOI fee regime include:

- Define hardship requirements within the FOI Act to ensure consistent application of fee waivers, this may include aligning the waiver of application fees due to hardship with the application of access charges.
- Consider measures to prevent corporate entities from circumventing application fees.
- Introduce prepayment of all estimated access charges to prevent use of council resources collating documents subsequently not accessed due to non-payment.

These reforms would help balance the need for accessible information with the financial and resource constraints faced by agencies.