



Your ref:
Our ref: Lex 756

Me

By email: foi+request-10170-5b0553d2@righttoknow.org.au

Dear Me

Freedom of Information – Internal review decision

1. I refer to your email of 17 August 2023 requesting an internal review of the Department of Education's (the department's) freedom of information (FOI) decision dated 15 August 2023 made under the *Freedom of Information Act 1982* (FOI Act).
2. I am authorised to make internal review decisions under the FOI Act.

Decision summary

3. For the reasons set out below, I have decided to vary the decision dated 15 August 2023 (the primary decision). I have decided to release the following information to you:
 - the dates of emails
 - the domain names of the senders and recipients of emails
 - an extract of legislation that is publicly available
 - parts of some signature blocks.
4. In respect of the balance of the material, I affirm the primary decision that the material identified in the attached Schedule of Documents is exempt from disclosure under section 42 (legal professional privilege), and conditionally exempt under section 47C (deliberative material) and section 47E(d) of the FOI Act. I also affirm the primary decision that disclosure of the conditionally exempt material would, on balance, be contrary to the public interest.

Background

5. On 17 April 2023, the department received your request for access to documents under the FOI Act.
6. On 1 May 2023, the department sent you a preliminary assessment of the charge payable to process your request. Following further correspondence with you, on 28 May 2023, you sought waiver of the charge on the basis that access to the documents is in the general public interest and the interest of a substantial section of the public.

7. On 27 June 2023, the decision maker notified you of their decision to affirm the imposition of a charge. The decision maker decided to reduce the processing charge to exclude publicly available material from the charge calculation.
8. Following further correspondence with you, during which you further revised the scope of your request, on 10 July 2023 the department sent you a revised preliminary estimate of the charge payable for the processing of your request.
9. Following further correspondence with you, on 3 August 2023, you paid the charge.
10. On 15 August 2023, the primary decision maker decided that six documents consisting of 53 pages fell within the scope of your request. The primary decision maker refused access to the documents in part. In summary, the primary decision maker decided to refuse access to the documents in part because they contain:
 - material subject to legal professional privilege (section 42)
 - deliberative material, the disclosure of which would be contrary to the public interest (section 47C conditional exemption)
 - information, the disclosure of which would, or could reasonably be expected to, have a substantial adverse effect on the proper and efficient conduct of the operations of an agency, contrary to the public interest (section 47E(d) conditional exemption).
11. On 17 August 2023, the department received your request for internal review.

Page formatting

12. The primary decision maker considered the domain names of the senders and recipients of emails to be irrelevant to your request, and redacted them under section 22 of the FOI Act. In your request for internal review, you advised that you did not consider the domain names to fall outside the scope of your request.
13. The domain names of the first email in each email chain in the Schedule of Documents is not displayed as a normal function of Microsoft Outlook. In order to show the domain names you have requested, I forwarded the relevant emails to a generic departmental FOI email address. I have redacted my forwarding emails under section 22 of the FOI Act, as my forwarding emails do not contain information falling within the scope of your request.
14. Forwarding the emails so that the domain names are visible has increased the total page count of the documents from 53 pages (subject to the primary decision) to 59 pages.

Reasons for decision

15. In accordance with section 54 of the FOI Act, FOI applicants have a right to apply for internal review of an 'access refusal decision', as defined in section 53A of the FOI Act. An access refusal decision includes a decision refusing access to a document in accordance with a request.
16. In reaching my decision, I took the following material into account:
 - the primary decision
 - your correspondence dated 17 August 2023 seeking internal review of the primary decision
 - consultations with relevant departmental officers

- consultations other Commonwealth Government agencies undertaken at the primary decision stage
- the FOI Act
- the guidelines issued by the Australian Information Commissioner under section 93A of the FOI Act (the FOI Guidelines).

Section 22 of the FOI Act

17. I have decided that some of the documents falling within the scope of your request contain exempt and/or irrelevant material. In this regard, sections 22(1) and (2) of the FOI Act provide that:

Scope

(1) *This section applies if:*

- (a) *an agency or Minister decides:*
 - (i) *to refuse to give access to an exempt document; or*
 - (ii) *that to give access to a document would disclose information that would reasonably be regarded as irrelevant to the request for access; and*
- (b) *it is possible for the agency or Minister to prepare a copy (an edited copy) of the document, modified by deletions, ensuring that:*
 - (i) *access to the edited copy would be required to be given under section 11A (access to documents on request); and*
 - (ii) *the edited copy would not disclose any information that would reasonably be regarded as irrelevant to the request; and*
- (c) *it is reasonably practicable for the agency or Minister to prepare the edited copy, having regard to:*
 - (i) *the nature and extent of the modification; and*
 - (ii) *the resources available to modify the document; and*
- (d) *it is not apparent (from the request or from consultation with the applicant) that the applicant would decline access to the edited copy.*

Access to edited copy

(2) *The agency or Minister must:*

- (a) *prepare the edited copy as mentioned in paragraph (1)(b); and*
- (b) *give the applicant access to the edited copy*

18. On 20 April 2023, the department advised you that it would treat the names, signatures, position titles and contact details of Commonwealth employees as irrelevant in accordance with section 22 of the FOI Act unless you advised otherwise.

19. On the same day, you advised as follows:

I'm happy for APS and EL staff details to be redacted.

For SES, I don't agree to their names being redacted (although I do agree to redacting their context [sic] numbers and similar).

20. The primary decision maker redacted the full email addresses of the senders and recipients of emails who are APS and executive level (EL1 and EL2) officers as irrelevant material under section 22 of the FOI Act.

21. In your request for internal review, you stated:

To the extent that s 22 has been used to exempt email domains (@education.gov.au, @servicesaustralia.gov.au, etc.) the exemption does not apply. I excluded personal information of sub-SES employees from my request: once the name in an email address is redacted, the domain is no longer personal information and is not exempt.

22. I have decided to vary the primary decision and release the domain names of the senders and recipients of emails falling within the scope of your request and parts of some signature blocks.
23. In accordance with section 22 of the FOI Act, I have deleted exempt and irrelevant material where possible from the pages identified in the Schedule of Documents and have decided to release the remaining material to you.

Section 42 of the FOI Act

24. The primary decision maker decided that the documents identified in the Schedule of Documents attached to the primary decision are exempt under section 42 of the FOI Act (legal professional privilege).
25. In your request for internal review, you stated:

I submit that while the LPP exemption applies to LPP content, it does not apply to the metadata of LPP content. That is, the time and date any such emails were sent, and the 'to', 'from', 'cc', and 'bcc' fields, are not LPP and must be produced.

Further or alternatively, the metadata of LPP content is operational information and not exempt (s 42(3)(b)).

To the extent that information might otherwise be exempt (such as personal privacy), I note my submission above on the non-exempt nature of email domains for sub-SES staff.

26. In regard to the documents exempted by the primary decision maker under section 42 of the FOI Act, I have decided to vary the primary decision and release:
 - the dates of emails
 - the domain names of the senders and recipients of emails
 - parts of some signature blocks.
27. I have otherwise decided to affirm the primary decision that the material identified in the Schedule of Documents is exempt under section 42 of the FOI Act.
28. Your request for internal review states *"while the LPP exemption applies to LPP content, it does not apply to metadata of LPP content"*. You have not submitted that the remaining material identified as exempt under section 42 of the FOI Act is not exempt. For this reason, I do not understand you to be seeking internal review of the decision to exempt the identified material as exempt under section 42, except for the exemption of domain names and dates of emails. However, in accordance with part VI of the FOI Act, an internal review of a decision involves the making of a "fresh" decision. Therefore, I have considered whether the documents identified in the Schedule of Documents are exempt under section 42 of the FOI Act.

29. Section 42 of the FOI Act relevantly provides:

- (1) A document is an exempt document if it is of such a nature that it would be privileged from production in legal proceedings on the ground of legal professional privilege.*
- (2) A document is not an exempt document because of subsection (1) if the person entitled to claim legal professional privilege in relation to the production of the document in legal proceedings waives that claim.*
- (3) A document is not an exempt document under subsection (1) by reason only that:
(a) the document contains information that would (apart from this subsection) cause the document to be exempt under subsection (1); and
(b) the information is operational information of an agency.*

30. Legal professional privilege (LPP) protects documents which would reveal communications between a client and their lawyer made for the dominant purpose of giving or obtaining legal advice.

31. Paragraph 5.127 of the FOI Guidelines provides that to determine the application of section 42, the decision maker needs to turn to common law concepts of LPP. As noted by the primary decision maker, paragraph 5.129 of the FOI Guidelines provides that, at common law, determining whether a communication is privileged requires consideration of:

- whether there is a legal adviser-client relationship
- whether the communication was for the purpose of giving or receiving legal advice or for use or in connection with actual or anticipated litigation
- whether the advice given is independent
- whether the advice given is confidential.

32. The documents identified in the Schedule of Documents include correspondence between departmental officers and the lawyers in the department's Child Care Legal Team.

33. Paragraph 5.131 of the FOI Guidelines sets out factors that are relevant to establishing whether a legal adviser-client relationship exists for the purposes of section 42. Having regard to the factors set out in paragraph 5.131 of the FOI Guidelines, I am advised that when giving the legal advice contained in the documents identified in the Schedule of Documents, the department's in-house lawyers:

- were acting in their capacity as professional legal advisers
- the professional relationship between the lawyers and the department had the necessary quality of independence. I am advised that the in-house lawyers are admitted to practice and are accountable to the department's General Counsel
- the advice was provided for the dominant purpose of giving legal advice in regard to amendments to legislation
- the legal advice is confidential
- the in-house lawyers who provided the advice hold practising certificates and are subject to legal professional standards.

34. Accordingly, I am satisfied that the correspondence between the department's in-house lawyers and departmental officers falling within the scope of your request is subject to LPP and therefore exempt under section 42 of the FOI Act.

35. The documents identified in the Schedule of Documents also include emails between the department and the Office of Parliamentary Counsel (OPC) regarding the drafting of legislation. As noted in the

primary decision, dealings between instructing agencies and OPC attract LPP, and this privilege applies to drafting instructions, draft legislation and related communications (*State of New South Wales v Betfair Pty Ltd* [2009] FCAFC 160). I am satisfied that the correspondence between OPC and the department is also exempt under section 42 on the grounds of LPP.

36. I am satisfied that the material identified as exempt under section 42 in the Schedule of Documents is not operational information as defined in section 8A of the FOI Act. I am also satisfied that LPP over the documents identified in the Schedule of Documents has not been waived.

Section 47C of the FOI Act

37. The primary decision maker decided that the documents identified in the Schedule of Documents attached to the primary decision are exempt under section 47C of the FOI Act (deliberative material).

38. In your request for internal review, you submit:

As per OAIC guideline 6.56:

'if a deliberative document may be released without appreciable harm resulting, this would tend to indicate that it would not be contrary to the public interest to disclose the document and therefore it must be released to the applicant'.

DoE have not identified any appreciable harm. Therefore, DoE cannot apply these redactions.

Please disclose the documents without these redactions.

I note that DoE's internal review decision cannot invent an appreciable harm – if there was an appreciable harm, the original decision would have mentioned it. DoE have no option but to disclose these documents without this exemption in place.

Further, regarding pre-decisional communications, 'inhibition of frankness and candour' cannot be a public interest factor against access (OAIC 6.81). DoE's decision relies solely on inhibition of frankness and candour as a public interest factor against access. Consequently, DoE has put forward no lawful basis to apply the exemption, let alone show it would be contrary to the public interest to disclose the exempted information.

Further, as per OAIC 6.83 and 6.84, public servants are expected to give frank and fearless advice in a transparent environment. Unless there are 'special and specific' circumstances (OAIC 6.85), the exemption will not succeed. DoE's decision provides no special or specific circumstances to justify the exemption.

Consequently, all documents not disclosed on the basis of s 47C must be disclosed by the internal review.

39. In regard to the documents exempted by the primary decision maker under section 47C of the FOI Act, I have decided to vary the primary decision and release:

- the dates of emails subject to section 47C of the FOI Act
- the domain names of the senders and recipients of emails subject to section 47C of the FOI Act
- an extract of legislation that is publicly available.

40. I am otherwise satisfied that the material identified in the Schedule of Documents is conditionally exempt under section 47C of the FOI Act. I affirm the primary decision in respect of this material.

41. Section 47C of the FOI Act provides that:

(1) A document is conditionally exempt if its disclosure under this Act would disclose matter (deliberative matter) in the nature of, or relating to, opinion, advice or recommendation obtained, prepared or recorded, or consultation or deliberation that has taken place, in the course of, or for the purposes of, the deliberative processes involved in the functions of:

- (a) an agency; or*
- (b) a Minister; or*
- (c) the Government of the Commonwealth.*

Exceptions

(2) Deliberative matter does not include either of the following:

- (a) operational information (see section 8A);*
- (b) purely factual material.*

42. As set out in paragraph 6.52 of the FOI Guidelines, section 47C conditionally exempts documents containing deliberative matter. Deliberative matter is content that is in the nature of, or relating to either:

- an opinion, advice or recommendation that has been obtained, prepared or recorded or
- a consultation or deliberation that has taken place, in the course of, or for the purposes of, a deliberative process of the government, an agency or a minister.

43. As discussed in the FOI Guidelines at paragraphs 6.52 to 6.88, the main requirements of this conditional exemption are that a document:

- contains or relates to 'deliberative matter' that was prepared for a 'deliberative purpose' (subsection 47C(1))
- the material is not 'purely factual' or non-deliberative (subsection 47C(2)), and
- it would be 'contrary to the public interest' to give access at this time (subsection 11A(5)).

44. Paragraph 6.59 of the FOI Guidelines states that the deliberative processes of an agency refers to:

...the process of weighing up or evaluating competing arguments or considerations or to thinking processes – the process of reflection, for example, upon the wisdom and expediency of a proposal, a particular decision or a course of action.

45. The documents identified in the Schedule of Documents contain consultation, opinion, advice, and recommendations prepared as part of the deliberative processes involved in the department's functions relating to the development of the *Family Assistance Legislation Amendment (Plan for Cheaper Child Care) Bill 2022*.

46. The Administrative Arrangements Orders issued by the Governor-General list the matters dealt with by the department, including early childhood education and care policy and programmes. I am satisfied that the deliberative material in the documents identified in the Schedule of Documents is consultation, opinion, advice and recommendations prepared in the course of, or for the purposes of the deliberative processes involved in the functions of the department.

47. Paragraph 6.73 of the FOI Guidelines explains that the exclusion of ‘purely factual material’ from the exemption does not extend to factual material that is an integral part of the deliberative content and purpose of a document, or is embedded in or intertwined with the deliberative content such that it is impractical to excise it. I am satisfied that any factual material in the documents is an integral part of the deliberative content and is intertwined with the deliberative content such that it is not possible to release it without also releasing deliberative material.
48. I am also satisfied that the information is not operational information as defined in section 8A of the FOI Act.
49. As set out above, your request for internal review notes that paragraph 6.56 of the FOI Guidelines states that *“if a deliberative document may be released without appreciable harm resulting, this would tend to indicate that it would not be contrary to the public interest to disclose the document and therefore it must be released to the applicant”*. You have submitted that the primary decision maker did not identify any “appreciable harm” and that the documents should therefore be released to you.
50. I do not accept your submission that the decision maker must be satisfied that release of the material would cause “appreciable harm” in order for documents to be exempt under section 47C of the FOI Act. As set out in paragraph 6.55 of the FOI Guidelines, it is not necessary for the department to identify harm that would result from disclosure of the documents. Paragraph 6.55 of the FOI Guidelines provides as follows:
- 6.55 The deliberative processes exemption differs from other conditional exemptions in that no type of harm is required to result from disclosure. The only consideration is whether the document includes content of a specific type, namely deliberative matter. If a document does not contain deliberative matter, it cannot be conditionally exempt under this provision, regardless of any harm that may result from disclosure.*
51. I also do not accept your submission that:
- DoE’s internal review decision cannot invent an appreciable harm – if there was an appreciable harm, the original decision would have mentioned it. DoE have no option but to disclose these documents without this exemption in place.*
52. For completeness, I note that paragraph 9.2 of the FOI Guidelines provides as follows:
- 9.2 Internal review enables an agency to reconsider in full both the FOI request and the original agency decision on that request. The internal review officer can exercise all the powers of the original decision maker, including clarifying the scope of the request with the applicant, redoing any work undertaken at the primary decision-making stage and reaching a different view on any aspect of the original decision.*
53. As internal review decision maker, I am making a fresh decision in respect of your FOI request. It is open to me to exercise all the powers of the original decision maker. In particular, I can take into account additional matters, including additional public interest factors in favour of and contrary to release of the documents, that were not considered by the primary decision maker.
54. For these reasons, I am satisfied that the identified documents contain deliberative material that is conditionally exempt from disclosure under section 47C of the FOI Act.

Public interest considerations

55. Under section 11A(5) of the FOI Act, the department must give you access to conditionally exempt material unless in the circumstances it would be, on balance, contrary to the public interest to do so.
56. In accordance with section 11B of the FOI Act, I must consider the four public interest factors favouring access, including whether access to the document would do any of the following:
- promote the objects of the FOI Act
 - inform debate on a matter of public importance
 - promote effective oversight of public expenditure
 - allow a person to access his or her own personal information.
57. Section 11A(5) of the FOI Act provides:
- The agency or Minister must give the person access to the document if it is conditionally exempt at a particular time unless (in the circumstances) access to the document at that time would, on balance, be contrary to the public interest.*
58. When weighing the public interest for and against disclosure under section 11A(5) of the FOI Act, I have taken into account relevant factors in favour of disclosure. In particular, I have considered the extent to which disclosure would promote the objects of the FOI Act and promote effective oversight of public expenditure.
59. I have also considered the relevant factors weighing against disclosure, indicating that access would be contrary to the public interest. In particular, I have considered the extent to which disclosure could reasonably be expected to:
- inhibit frankness and candour in the provision of advice, recommendations, opinions and consultation between departmental officers and officers of Services Australia in relation to deliberative processes concerning both the department's functions and the functions of Services Australia. This could reasonably be expected to have an adverse impact on the decision-making and deliberative processes of both agencies.
 - impede interagency discussions and consultations regarding the development of policies and legislative amendments where the responsibility for the policy or legislation is shared across more than one department. Interagency discussions are essential in developing policy and legislation that more than one agency is responsible for, to enable each agency to fully understand the issues and views of other agencies with joint responsibility for policies or programs. Public release of the conditionally exempt material would be likely to deter such interagency discussions in the future, thereby diminishing the efficient and effective development of future programs and legislative amendments.
 - the sharing of information between agencies is particularly important in the development of policy and legislation, as a failure to fully understand and appreciate the complexities of a policy or legislative change may lead to unforeseen implementation difficulties or poor outcomes for the community.
60. In your request for internal review, you have submitted that 'inhibition of frankness and candour' cannot be a public interest factor against access.

61. Paragraph 6.82 of the FOI Guidelines provides as follows:

6.82 The Information Commissioner considers that frankness and candour in relation to the s 47C conditional exemption may have some application as one public interest factor against disclosure in combination with other factors, and possibly as the sole factor where the public interest is clearly, heavily weighted against disclosure of a document of a minister, or a document that would affect the effective and efficient functioning of government.

62. I am satisfied that the ‘frankness and candour’ considerations I have outlined above are an appropriate public interest factor weighing against disclosure, particularly given that I have considered this in combination with other public interest factors. I have also had regard to this public interest factor weighing against disclosure in the particular context of the development of policy and legislation regarding a matter that is the shared responsibility of two agencies, and which therefore necessitates extensive interagency consultation.

63. I have not taken into account any of the irrelevant factors set out in paragraph 11B(4) of the FOI Act in making this decision. These irrelevant factors include that “access to a document could result in any person misinterpreting or misunderstanding the document” and “access to the document could result in confusion or unnecessary debate”.

64. Having considered the public interest factors for and against disclosure, I am satisfied that, on balance, disclosure of the conditionally exempt material would be contrary to the public interest.

Section 47E of the FOI Act

65. The primary decision maker decided that the documents identified in the Schedule of Documents attached to the primary decision are exempt under section 47E(d) of the FOI Act (operations of an agency). The relevant material is an email address for a positional mailbox used by staff within Services Australia and staff of other Australian Government agencies, including the department, to communicate with a particular team in Services Australia.

66. In your request for internal review, you submitted:

For similar reasons I have submitted above regarding s 22, there is no valid basis to exempt email domains. It will not have any effect on the operations of an agency to know that DoE sent SA an email or vice versa – let alone a substantial and adverse effect. You must disclose the email domains of the positional inboxes.

As above, disclosing the email domains will not impede SA or DoE in any way. There are no public interest factors against disclosure. Necessarily, then, it is in the public interest to disclose the positional inbox domains.

67. I have decided to vary the primary decision as follows:

- I have decided to release the domain name of the positional email address to you
- I have decided that a positional email address in the department is also exempt under section 47E(d), subject to the release of the domain portion of the email address.

68. I am satisfied that the prefix appearing to the left of the @ symbol in the positional email addresses is exempt under section 47E(d).

69. Section 47E of the FOI Act provides that:

A document is conditionally exempt if its disclosure under this Act would, or could reasonably be expected to, do any of the following: ...

...

(d) have a substantial adverse effect on the proper and efficient conduct of the operations of an agency.

70. I am advised that release of the prefix of the positional email addresses could reasonably be expected to have a substantial adverse effect on the proper and efficient conduct of the operations of Services Australia and the department. I am advised that release of the positional email addresses could reasonably be expected to undermine established contact methods that have been put in place to enable the agencies to manage the volume of correspondence and communications they receive, and to ensure that emails are directed to the appropriate parts of the agencies.

71. Accordingly, I am satisfied that the prefix of the positional mailboxes appearing in the documents identified in the Schedule of Documents are conditionally exempt under subsection 47E(d) of the FOI Act.

Public interest considerations

72. As noted above, under subsection 11A(5) of the FOI Act, the department must give you access to conditionally exempt material unless in the circumstances it would be, on balance, contrary to the public interest to do so.

73. In accordance with section 11B of the FOI Act, I have considered the four public interest factors favouring access set out in section 11B of the FOI Act. I am not satisfied that releasing the prefix of positional email addresses would promote the objects of the FOI Act to any significant extent. I am also not satisfied that release of the positional email addresses would inform debate on a matter of public importance, promote effective oversight of public expenditure or provide you access to your own personal information.

74. I have also had regard to the public interest factors against releasing the information, being that disclosure of the positional email addresses would allow members of the public to circumvent established arrangements for communicating with Services Australia and the department, which have been put in place to enable the agencies to manage the large volume of correspondence they receive.

75. Having considered the public interest factors for and against disclosure, I am satisfied that, on balance, disclosure of the conditionally exempt material would be contrary to the public interest.

Part 7 of your request

76. As noted above, part 7 of your request seeks access to:

"7. [A document containing] The names of any CCS claimants, where the Department of Education considered those claimants' claims as part of considering s 67CC(2) amendments (e.g., as an example of why the amendment was needed, or a case study of what the amendment would achieve, or similar)."

77. In the primary decision, the primary decision maker stated that they were advised that the department did not study any individual claims as part of its consideration of the amendments to paragraph 67CC(2)(d) of the *A New Tax System (Family Assistance) (Administration) Act 1999*. The primary decision

maker found that the department does not hold any documents falling within the scope of part 7 of your request.

78. In your request for internal review, you asked:

Could the internal review decision please provide more information. If DoE did not study any individual claims, how did it know there was an issue that required amending s 67CC(2)(d)? And/or, how did it assess what the impact of its proposed amendments might be?

Further, I note that I requested:

'[A document containing] The names of any CCS claimants, where the Department of Education considered those claimants' claims as part of considering s 67CC(2) amendments'

That is not the same as:

'study[ing] any individual claims as part of its consideration of the amendments to paragraph 67CC(2)(d)'

It may be that SA, an operational agency, 'studied' or otherwise considered individual claims, and then provided advice to DoE. In considering any such advice, DoE will have been considering individual claims. Please check there are no documents if point 7 is given a broader reading.

79. In the course of reviewing the primary decision, I have made further enquiries with the relevant departmental line area in regard to part 7 of your request. The relevant line area has considered your "broader reading" of part 7 of the request and has advised me that the department did not consider CSS claimant's claims as part of considering the section 67CC(2) amendments, and that the department therefore does not hold any documents falling within the scope of part 7 of your request.

80. Accordingly, I am satisfied that the department does not hold any documents falling within the scope of part 7 of your FOI request.

Conclusion

81. In summary, I am satisfied that the documents identified in the Schedule of Documents are exempt under section 42 of the FOI Act, and conditionally exempt under sections 47C and 47E(d) of the FOI Act. Furthermore, I have decided that, on balance, it would be contrary to the public interest to release the conditionally exempt material.

82. I have deleted the exempt and irrelevant material and released the remaining material to you in accordance with section 22 of the FOI Act.

Rights of review

83. I have enclosed information about your rights of review under the FOI Act at Attachment A.

84. Should you have any questions, please do not hesitate to contact me via email at foi@education.gov.au.

Yours sincerely

A handwritten signature in cursive script that reads "Fiona".

Fiona
Authorised decision maker
Freedom of Information Team
Department of Education

14 September 2023

SCHEDULE OF DOCUMENTS – Internal review decision – Me

Number	Internal review pages	Date	Description	Primary Decision	Exemption	Comments
<p>Part 1</p> <p>I am advised that the documents captured by this part of your request are the same as those that relate to part 9 of your request.</p>						
Document 1	1-6	1 July 2022	Internal email correspondence	Refuse access	s 42	<p><u>Primary decision</u></p> <p>Material subject to legal professional privilege deleted under s 42.</p> <p>Irrelevant material (non-SES employee names and contact details and SES employee email address) deleted under s 22.</p> <p><u>Decision on internal review</u></p> <p>Vary the primary decision to release email domain names and dates and parts of a signature block.</p>

						<p>Affirm primary decision that the balance of the material is exempt under legal professional privilege (section 42).</p> <p>Irrelevant and exempt material deleted under section 22.</p>
Document 2	7-18	8 August 2022	Email chain including emails between the department and Services Australia and internal email correspondence	Refuse access	s 42 s 47C s 47E(d)	<p><u>Primary decision</u></p> <p>Material subject to legal professional privilege deleted under s 42.</p> <p>Deliberative material deleted under section 47C.</p> <p>Material, the disclosure of which would, or could reasonably be expected to have a substantial and adverse effect on the proper and efficient conduct of the operations of an agency deleted under s 47E(d).</p> <p>Irrelevant material deleted under s 22, including material already released in response to LEX71589 and non-SES employee names and contact details.</p>

						<p><u>Decision on internal review</u></p> <p>Vary the primary decision to release email domain names and dates, parts of signature blocks and an extract of legislation.</p> <p>Affirm primary decision that the balance of the material is exempt under legal professional privilege (section 42), deliberative material (section 47C) and operations of agency (section 47E(d)).</p> <p>Irrelevant and exempt material deleted under section 22.</p>
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Document 3	19-24	18 August 2022	Email chain including emails between the department and the Office of Parliamentary Counsel and internal email correspondence, plus two attachments	Refuse access	s 42	<p><u>Primary decision</u></p> <p>Material subject to legal professional privilege deleted under s 42.</p> <p>Irrelevant material (non-SES employee names and contact details and SES employee telephone numbers) deleted under s 22.</p> <p><u>Decision on internal review</u></p> <p>Vary the primary decision to release email domain names and dates.</p> <p>Affirm primary decision that the balance of the material is exempt under legal professional privilege (section 42),</p> <p>Irrelevant and exempt material deleted under section 22.</p>
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Part 2

I am advised that the documents captured by this part of your request are the same as those that relate to parts 4 and 10 of your request.

Document 1	25-28	7 September 2021	Internal email chain	Refuse access	s 42	<p><u>Primary decision</u></p> <p>Material subject to legal professional privilege deleted under s 42.</p> <p>Irrelevant material deleted under s 22.</p> <p><u>Decision on internal review</u></p> <p>Vary the primary decision to release email domain names and dates and parts of a signature block.</p> <p>Affirm primary decision that the balance of the material is exempt under legal professional privilege (section 42),</p> <p>Irrelevant and exempt material deleted under section 22.</p>
Document 2	29-32	1 July 2022	Internal email chain	Grant access in full	N/A	<p><u>Primary decision</u></p> <p>Irrelevant material, including non-SES employee names and contact details and SES employee email address, deleted under s 22.</p>

						<u>Decision on internal review</u> Vary the primary decision to release email domain names and dates. Irrelevant material deleted under section 22.
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Part 5

I am advised that the document captured by this part of your request is the same as the document that relates to part 11 of your request.

Document 1	33-59	Undated	Family Assistance Legislation Amendment (Plan for Cheaper Child Care) Bill 2022 – lay person explanation of amendments	Grant access in full	N/A	<u>Primary decision</u> Grant access in full Document not subject to internal review decision as it was released in full by the primary decision maker.
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YOUR RIGHTS OF REVIEW

Applying for external review by the Australian Information Commissioner

If you do not agree with this decision, you can ask the Australian Information Commissioner to review the decision.

You will have 60 days to apply in writing for a review by the Australian Information Commissioner.

You can lodge your application in one of the following ways:

Online:

https://forms.business.gov.au/smartforms/servlet/SmartForm.html?formCode=ICR_10

Email: foidr@oaic.gov.au

Post: Australian Information Commissioner
GPO Box 5218
SYDNEY NSW 2001

Complaints to the Australian Information Commissioner

Australian Information Commissioner

You may complain to the Australian Information Commissioner about action taken by an agency in the exercise of powers or the performance of functions under the FOI Act.

A complaint to the Australian Information Commissioner must be made in writing and can be lodged in one of the following ways:

Online:

https://forms.business.gov.au/smartforms/servlet/SmartForm.html?formCode=ICCA_1

Email: foidr@oaic.gov.au

Post: Australian Information Commissioner
GPO Box 5218
SYDNEY NSW 2001