



Australian Government
Department of Finance

Reference: FOI15/33
Contact: FOI Team
Telephone: (02) 6215 1783
e-mail: FOI@finance.gov.au

Mr Jason Radcliffe
Right to Know

via email: foi+request-1025-9ad15143@righttoknow.org.au;

Dear Mr Radcliffe,

Freedom of Information Request – FOI15/33

Thank you for your email, dated 22 March 2015, to the Department of Finance (Finance) in which you sought access to the following documents under the *Freedom of Information Act 1982* (FOI Act).

... any and all documents held by the Department of Finance ("the Department") concerning the recent relocation of the electorate office of Adam Bandt MP ("the Member"). Such documentation could include, but may not be limited to:

- Correspondence held by the Department between the Member, the Department and the Special Minister of State and any other department concerning the justification or reasoning for the relocation;*
- Quotations, invoices or other like financial documents relating to work performed in the process of the relocation (eg. moving expenses, installation of new infrastructure, advertising the relocation to the Member's constituents etc); and*
- Copies of the leases held by the Department in relation to the properties of 280 King Street and 296 Brunswick Street.*

In an email, dated 25 March 2015, you provided the following clarification:

The request relates to any documents held by the Department in relation to the relocation of the office of Adam Bandt MP from 280 King Street to 296 Brunswick Street, irrespective of the date of the document.

The purpose of this letter is to provide you with my decision.

Authorised decision-maker

I am authorised by the Secretary under subsection 23(1) of the FOI Act to grant or deny access to documents under the FOI Act.

Decision

I have decided to refuse the request under subsection 24(1)(b) of the FOI Act.

Reasons for Decision

In making my decision, I have had regard to the following:

- the scope of your FOI request and the volume of material that would need to be reviewed to determine if there were potentially relevant documents;
- communications with you during the request consultation process (see below);
- the relevant provisions of the FOI Act; and
- the FOI Guidelines issued by the Office of the Australian Information Commissioner (OAIC Guidelines).

Request consultation process

In accordance with the requirements of subsection 24AB(2) of the FOI Act, Finance wrote to you on 7 April 2015 advising you of the intention to refuse your request on the grounds that the processing of your request would substantially and unreasonably divert the resources of the agency from its other operations.

You were invited to revise the scope of your request, within 14 days of the issue of the 24AB(2) notice, in order to reduce your scope to remove the practical refusal reason. Before the end of the consultation period, you were advised that you must:

- withdraw your request
- make a revised request
- advise that you did not wish to revise your request.

Finance received an email from you, dated 12 April 2015, revising the scope of your request to:

- Correspondence held by the Department between the Member, the Department and the Special Minister of State and any other department concerning the justification or reasoning for the relocation;

- Copies of the leases held by the Department in relation to the properties of 280 King Street and 296 Brunswick Street.

Noting that your revised request is still very broad, I have identified a large amount of documentation relating to the general subject-matter of your request which would need to be searched to identify the information you are seeking.

In considering the volume of documents relevant to your revised request, I have estimated that the combination of the search, retrieval, expected time it would take to review the requested documentation, third party consultation and additional preparation and examination of the documentation is likely to exceed 80 hours. I consider this to continue to constitute an unreasonable diversion of the Department's resources. As such, I have decided to proceed with refusing access to the documents due to the request being an unreasonable diversion of resources.

Subsection 24(1)(b) of the FOI Act states that:

... if, after the request consultation process, the agency or Minister is satisfied that the practical refusal reason still exists – the agency or Minister may refuse to give access to the document in accordance with the request.

After having undertaken a request consultation process, I am satisfied that the practical refusal ground on which we consulted still exists. The work involved in processing the request would substantially and unreasonably divert the resources of the agency from its other operations. In accordance with subsection 24(1)(b) I have made the decision to refuse to give access to the documents in accordance with the request.

Review and Appeal Rights

You are entitled to request a review of my decision. Your appeal rights are set out in Attachment A.

Further Assistance

Should you have any queries concerning this matter, please do not hesitate to contact the Finance FOI Team on (02) 6215 1783.

Yours sincerely



Cheryl-anne Moy
Ministerial and Parliamentary Service Division
Department of Finance
15 April 2015



Australian Government
Department of Finance

Freedom of Information – Your Review Rights

If you disagree with the decision made by the Department of Finance (Finance) under the *Freedom of Information Act 1982* (the FOI Act), you can ask for the decision to be reviewed. You may want to seek review if you sought certain documents and were not given full access, if you have been informed that there will be a charge for processing your request, if you have made a contention against the release of documents that has not been agreed to by the Department, or if your application to have your personal information amended was not accepted. There are two ways you can ask for review of a decision: internal review by Finance, or external review by the Australian Information Commissioner.

Internal Review

If Finance makes an FOI decision that you disagree with, you can ask Finance to review its decision. The review will be carried out by a different agency officer, usually someone at a more senior level. There is no charge for internal review.

You must apply within 30 days of being notified of the decision, unless Finance agrees to extend the application time. You should contact Finance if you wish to seek an extension.

Finance is required to make a review decision within 30 days. If Finance does not do so, the original decision is considered to be affirmed.

How to apply for internal review

You must apply in writing and should include a copy of the notice of the decision provided and the points you are objecting and why.

You can lodge your application in writing through one of the contact details provided at the end of this attachment.

Review by the Australian Information Commissioner (IC)

The IC is an independent office holder who can review the decisions of agencies and ministers under the FOI Act. The IC can review access refusal decisions (s 54L(2)(a) of the FOI Act), access grant decisions (s 54M(2)(a)), refusals to extend the period for applying for internal review under s 54B (s 54L(2)(c)), and agency internal review decisions under s 54C (ss 54L(2)(b) and 54M(2)(b)).

If you are objecting to a decision to refuse access to documents, impose a charge or refuse to amend a document, you must apply to the IC within 60 days of being given notice of the decision. If you are objecting to a decision to grant access to another person, you must apply within 30 days of being notified of that decision.

Do I have to go through Finance's internal review process first?

No. You may apply directly to the IC. However, going through Finance's internal review process gives Finance the opportunity to reconsider its initial decision, and your needs may be met more quickly without undergoing an external review process.

Do I have to pay?

No. Review by the IC is currently free.

How do I apply?

You must apply for IC review in writing and you can lodge your application in one of the following ways:

Post: Office of the Australian Information Commissioner
GPO Box 5218
SYDNEY NSW 2001
Email: enquiries@oaic.gov.au
Fax: 02 9284 9666
In person: Level 3
175 Pitt Street
SYDNEY NSW 2000

An electronic application form is also available on the OAIC's website (www.oaic.gov.au). Your application should include a copy of the notice of the decision that you are objecting to (if one was provided), and your contact details. You should also set out why you are objecting to the decision.

Making a complaint

You may make a written complaint to the IC about actions taken by Finance in relation to your application. However, if you are complaining that a Finance decision is wrong, it is treated as an application for review.

When can I go to the Administrative Appeals Tribunal (AAT)?

Under the FOI Act, you must seek external review through the IC prior to applying to the AAT for such a review. The fee for lodging an AAT application is \$861, although there are exemptions for health care and pension concession card holders and the AAT can waive the fee on financial hardship grounds.

Investigation by the Ombudsman

The Commonwealth Ombudsman can also investigate complaints about action taken by agencies under the FOI Act. However, if the issue complained about either could be or has been investigated by the IC, the Ombudsman will consult the Commissioner to avoid the same matter being investigated twice. If the

Ombudsman decides not to investigate the complaint, then they are to transfer all relevant documents and information to the IC.

The IC can also transfer a complaint to the Ombudsman where appropriate. This could occur where the FOI complaint is only one part of a wider grievance about an agency's actions. It is unlikely that this will be common. You will be notified in writing if your complaint is transferred.

Applications to the Ombudsman should be directed to the following address:

Post: Commonwealth Ombudsman
PO Box 442
CANBERRA ACT 2601
Phone: 02 6276 0111
1300 362 072

Finance FOI contact details

FOI Coordinator
Legal Services Branch
Department of Finance
John Gorton Building
King Edward Terrace
PARKES ACT 2600
Phone: 02 6215 1783
Email: foi@finance.gov.au
Website: www.finance.gov.au/foi/foi.html

