



Your Ref  
Our Ref Lex 757

Me

By email: [foi+request-10581-3e83befc@righttoknow.org.au](mailto:foi+request-10581-3e83befc@righttoknow.org.au)

Dear Me

### **Your Freedom of Information request – decision**

I refer to your request, received by the Department of Education (department) on 17 August 2023, for access under the *Freedom of Information Act 1982* (FOI Act) to the following documents:

- 1. Copies of any emails or written correspondence related to FOI request to Services Australia reference number LEX71589 that were sent or received by an SES or equivalent (regardless of which department the SES worked for, and regardless of whether they were in the 'to', 'from', 'cc', or 'bcc' field).*
- 2. Copies of any emails or written correspondence related to FOI request to Services Australia reference number LEX71589 that were sent or received by a minister, minister's office, or ministerial staff (regardless of which minister, and regardless of whether they were in the 'to', 'from', 'cc', or 'bcc' field).*
- 3. Correspondence internal to the Department of Education related to FOI request to Services Australia reference number LEX71589.*
- 4. Correspondence sent to/from the Department of Education/Services Australia and vice versa related to FOI request to Services Australia with reference number LEX71589.*

*Included in the request:*

- the domain of any and all email addresses that are in a document within the above scope*
- the personal details, including work contact details, of any SES staff, regardless of which department they are from*
- the non-personal information in email signature blocks of all staff (for example, name of team or section etc.)*

*Excluded from this request:*

- duplicate documents*
- the personal information of any sub-SES staff*

## **My decision**

The department holds 17 documents (totalling 67 pages) that fall within the scope of your request.

I have decided to:

- grant you **access in full** to 5 documents (subject to the redaction of irrelevant material)
- grant you **access in part** to 12 documents with some of the content removed.

I have decided that certain documents and/or parts of documents that you have requested are exempt under the FOI Act because they contain:

- information, the disclosure of which would reveal a Cabinet deliberation or decision (section 34 exemption)
- material subject to legal professional privilege (section 42 exemption)
- deliberative matter, the disclosure of which would be contrary to the public interest (section 47C conditional exemption)
- operations of an agency material, the disclosure of which would be contrary to the public interest (section 4E(d) conditional exemption)
- personal information, the disclosure of which would be unreasonable and contrary to the public interest (section 47F conditional exemption).

A schedule of the documents and the reasons for my decision are set out at **Attachment A**.

## **Charge**

On 8 September 2023, the department made a preliminary assessment of the charge payable to process your request in the amount of \$117.50. On 11 September 2023, you contended the calculation of the charge. On 11 October 2023, the department decided to reduce the charge to \$87.50.

On 20 October 2023, the department received notification from the Office of the Australian Information Commissioner that you had sought Information Commissioner review of the department's charge decision dated 11 October 2023.

On 9 November 2023, under section 55G(1)(b) of the FOI Act, an authorised decision maker decided to set aside the decision dated 11 October 2023 and substitute a decision not to impose a charge.

## **How we will send your documents**

The documents released to you in accordance with this decision are attached.

### **You can ask for a review of my decision**

If you disagree with any part of the decision, you can ask for a review. There are two ways you can do this. You can ask for an internal review by the department or an external review by the Australian Information Commissioner.

You can find information about your rights of review under the FOI Act, as well as information about how to make a complaint at Attachment B.

### **Further assistance**

If you have any questions, please email [foi@education.gov.au](mailto:foi@education.gov.au).

Yours sincerely



Vicki  
Authorised decision maker  
Freedom of Information Team  
Department of Education

16 November 2023

## SCHEDULE OF DOCUMENTS – ME

Number	Pages	Date	Description	Decision	Exemption	Comments
1.	1-3	07.02.2023 at 8.49 am	Emails	Grant access in part	s 47F(1)	Page 1: Personal information deleted under section 47F(1)  Exempt and irrelevant material deleted under section 22
2.	4-8	07.02.23 at 9.30 am	Emails	Grant access in part	s 47F(1)	Page 6-7: Personal information deleted under section 47F(1)  Exempt and irrelevant material deleted under section 22
3.	9-10	09.02.2023 at 3.04 pm	Emails	Grant access in part	s 47E(d)	Page 10: operations of an agency information deleted under section 47E(d)  Exempt and irrelevant material deleted under section 22
4.	11-12	09.02.2023 at 3.19 pm	Emails	Grant access in full	N/A	Irrelevant material deleted under section 22

Number	Pages	Date	Description	Decision	Exemption	Comments
5.	13-15	09.02.2023 at 4.20 pm	Emails	Grant access in part	s 34(3) s 47C s 47E(d)	Page 13: Cabinet material deleted under section 34(3)  Page 13: deliberative processes material deleted under section 47C  Page 14: operations of an agency information deleted under section 47E(d)  Exempt and irrelevant material deleted under section 22
6.	16-17	09.02.2023 at 5.29 pm	Emails	Grant access in full	N/A	Irrelevant material deleted under section 22
7.	18-19	10.02.2023	Teams message	Grant access in full	N/A	Irrelevant material deleted under section 22
8.	20-24	10.02.2023 at 4.04 pm	Emails	Grant access in full	N/A	Irrelevant material deleted under section 22

Number	Pages	Date	Description	Decision	Exemption	Comments
9.	25-28	13.02.2023	Emails	Grant access in part	s 34(3) s 42 s 47C s 47E(d)	<p>Page 26: Cabinet material deleted under section 34(3)</p> <p>Page 26: legal professional privilege material deleted under section 42</p> <p>Pages 25-26: deliberative processes material deleted under section 47C</p> <p>Page 27: operations of an agency information deleted under section 47E(d)</p> <p>Exempt and irrelevant material deleted under section 22</p>

Number	Pages	Date	Description	Decision	Exemption	Comments
10.	29-32	14.02.2023 at 9.57 am	Emails	Grant access in part	s 34(3) s 42 s 47C s 47E(d)	<p>Page 30: Cabinet material deleted under section 34(3)</p> <p>Page 30: legal professional privilege material deleted under section 42</p> <p>Pages 29-30: deliberative processes material deleted under section 47C</p> <p>Page 31: operations of an agency information deleted under section 47E(d)</p> <p>Exempt and irrelevant material deleted under section 22</p>
11.	33-35	14.02.2023 at 2.58 pm	Emails	Grant access in part	s 47E(d)	<p>Page 34: operations of an agency information deleted under section 47E(d)</p> <p>Exempt and irrelevant material deleted under section 22</p>

Number	Pages	Date	Description	Decision	Exemption	Comments
12.	36-38	14.02.2023 at 4.34 pm	Emails	Grant access in part	s 47C s 47E(d)	Pages 36-37: deliberative processes material deleted under section 47C  Page 37: operations of an agency information deleted under section 47E(d)  Exempt and irrelevant material deleted under section 22
13.	39-42	15.02.2023 at 9.38 am	Emails	Grant access in part	s 47C s 47E(d)	Pages 39-40: deliberative processes material deleted under section 47C  Page 40: operations of an agency information deleted under section 47E(d)  Exempt and irrelevant material deleted under section 22



Number	Pages	Date	Description	Decision	Exemption	Comments
14.	43-57	15.02.2023 at 12.17 pm	Email and attached report	Grant access in part	s 47E(d) s 47F	<p>Page 43: operations of an agency information deleted under section 47E(d)</p> <p>Page 44: personal information deleted under section 47F</p> <p>Exempt and irrelevant material deleted under section 22</p>
15.	58-61	21.02.2023 at 2.01 pm	Emails	Grant access in part	s 47F	<p>Page 58-59: personal information deleted under section 47F</p> <p>Exempt and irrelevant material deleted under section 22</p> <p>Attachment to email dated 21 February 2023 at 2.01 pm is a document subject to Services Australia Lex 71589 and is therefore out of scope.</p>
16.	62-64	21.02.2023 at 2.01 pm	Emails	Grant access in part	s 47F	<p>Pages 62-63: personal information deleted under section 47F</p> <p>Exempt and irrelevant material deleted under section 22</p>

<b>Number</b>	<b>Pages</b>	<b>Date</b>	<b>Description</b>	<b>Decision</b>	<b>Exemption</b>	<b>Comments</b>
17.	65-67	16.05.2023	Emails	Grant access in full	N/A	Irrelevant material deleted under section 22

## REASONS FOR DECISION

### What you requested

- 1. Copies of any emails or written correspondence related to FOI request to Services Australia reference number LEX71589 that were sent or received by an SES or equivalent (regardless of which department the SES worked for, and regardless of whether they were in the 'to', 'from', 'cc', or 'bcc' field).*
- 2. Copies of any emails or written correspondence related to FOI request to Services Australia reference number LEX71589 that were sent or received by a minister, minister's office, or ministerial staff (regardless of which minister, and regardless of whether they were in the 'to', 'from', 'cc', or 'bcc' field).*
- 3. Correspondence internal to the Department of Education related to FOI request to Services Australia reference number LEX71589.*
- 4. Correspondence sent to/from the Department of Education/Services Australia and vice versa related to FOI request to Services Australia with reference number LEX71589.*

#### *Included in the request:*

- the domain of any and all email addresses that are in a document within the above scope*
- the personal details, including work contact details, of any SES staff, regardless of which department they are from*
- the non-personal information in email signature blocks of all staff (for example, name of team or section etc.)*

#### *Excluded from this request:*

- duplicate documents*
- the personal information of any sub-SES staff*

On 4 September 2023, the department invited you to refine the scope of your request to exclude documents Services Australia processed in response to your FOI request Lex 71589. On 7 September 2023, you agreed to exclude these documents from the scope of your request.

On 6 October 2023, the department invited you to further refine the scope of your request to exclude documents Services Australia processed in response to your FOI request Lex 73069 and your request for internal review Lex 74480. On the same day, you agreed to exclude these documents from the scope of your request.

### What I took into account

In reaching my decision, I took into account:

- your original request dated 17 August 2023 as revised on 7 September 2023 and 6 October 2023
- other correspondence with you
- the documents that fall within the scope of your request
- consultation with other Commonwealth Government agencies about documents which contain information concerning them
- consultations with departmental officers about the nature of the documents and the operating environment and functions of the department
- the guidelines issued by the Australian Information Commissioner under section 93A of the FOI Act (FOI Guidelines)
- the *Freedom of Information (Charges) Regulations 2019*
- the FOI Act.

### Reasons for my decision

I am authorised to make decisions under section 23(1) of the FOI Act.

I have decided that certain documents and/or parts of documents that you requested are exempt under the FOI Act. My findings of fact and reasons for deciding that exemptions apply to those documents are discussed below.

#### Section 22 of the FOI Act: access to edited copies with irrelevant matter deleted

I have decided that some of the documents falling within the scope of your request contain exempt 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.*

The documents identified in the Schedule of Documents include exempt and/or irrelevant material.

Your request dated 17 August 2023 specified that it includes *“the domain of any and all email addresses that are in a document within the above scope”*. 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.

Your FOI request dated 17 August 2023 also specified that you did not seek access to the personal information any *“sub-SES staff”*. Accordingly, I have redacted the names and other personal information of Commonwealth officers who are not Senior Executive Service officers as irrelevant in accordance with section 22 of the FOI Act.

Many of the documents listed in the Schedule of Documents include both information falling within the scope of your request and other information unrelated to the FOI request to Services Australia reference number Lex 71589. To the extent that the material in the documents does not relate to Lex 71589 (and therefore falls outside the scope of your request), I have redacted this material as irrelevant in accordance with section 22 of the FOI Act.

In accordance with section 22 of the FOI Act, I have also redacted as irrelevant emails that were subject to your FOI requests to Services Australia reference numbers Lex 71589 and 73069 and your request for internal review reference number Lex 74480. By emails dated 7 September 2023 and 6 October 2023, you agreed to exclude such emails from the scope of your request.

In accordance with section 22 of the FOI Act, I have redacted 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 34 of the FOI Act: Cabinet documents

I have applied the exemption in section 34(3) of the FOI Act to the documents identified in the Schedule of Documents.

Section 34 of the FOI Act relevantly provides that:

- (1) A document is an exempt document if:
- (a) both of the following are satisfied:
    - (i) it has been submitted to the Cabinet for its consideration, or is or was proposed by a Minister to be so submitted;
    - (ii) it was brought into existence for the dominant purpose of submission for consideration by the Cabinet; or
  - (b) it is an official record of the Cabinet; or
  - (c) it was brought into existence for the dominant purpose of briefing a Minister on a document to which paragraph (a) applies; or
  - (d) it is a draft of a document to which paragraph (a), (b) or (c) applies.
- (2) A document is an exempt document to the extent that it is a copy or part of, or contains an extract from, a document to which subsection (1) applies.
- (3) A document is an exempt document to the extent that it contains information the disclosure of which would reveal a Cabinet deliberation or decision, unless the existence of the deliberation or decision has been officially disclosed.
- ...
- (6) Information in a document to which subsection (1), (2) or (3) applies is not exempt matter because of this section if the information consists of purely factual material, unless:
- (a) the disclosure of the information would reveal a Cabinet deliberation or decision; and
  - (b) the existence of the deliberation or decision has not been officially disclosed.

The documents identified in the Schedule of Documents at Attachment A contain information which, if disclosed, would reveal a Cabinet deliberation or decision. I am advised by relevant departmental officers that the Cabinet deliberation and decision have not been officially disclosed.

For the purposes of subsection 34(6) of the FOI Act, to the extent that the documents identified in the Schedule of Documents contain any purely factual material, I am satisfied that the disclosure of the factual information would reveal a Cabinet deliberation or decision, the existence of which has not been officially disclosed.

For these reasons, I am satisfied that the documents identified in the Schedule of Documents are exempt from disclosure under section 34(3) of the FOI Act.

#### Section 42 of the FOI Act - Documents subject to legal professional privilege

I have applied the exemption in section 42 of the FOI Act to the documents identified in the Schedule of Documents.

Section 42 of the FOI Act 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.*

The documents identified in the Schedule of Documents refer to legal advice provided by the department's in-house lawyers in the Corporate and Information Law Team.

I am satisfied that material in these documents summarises legal advice received from the department's in-house lawyers, and is of such a nature that it would be privileged from production in legal proceedings on the grounds of legal professional privilege. I consider that disclosure of the material may result in the waiver of legal professional privilege.

In accordance with paragraph 5.127 of the FOI Guidelines, I am required to address each aspect of legal professional privilege as established at common law when considering the application of section 42 of the FOI Act. Paragraph 5.129 of the FOI Guidelines provides that, at common law, determining whether a communication is privileged requires a consideration of the following factors:

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

I have considered each of these factors in turn below.

The legal advice summarised in the documents identified in the Schedule of Documents was given by the department's in-house government lawyers in the Corporate and Information Law Team. All departmental officers engaged by the department as government lawyers and working in the department's legal branches, including in the Corporate and Information Law Team, are required to hold a current practising certificate issued by the law society in the state or territory in which they practice.

Paragraph 5.134 of the FOI Guidelines relevantly provides that:

*...communications and information between an agency and its qualified legal advisers for the purpose of giving or receiving advice will be privileged whether the legal advisers are salaried officers [or not], provided that they are consulted in a professional capacity in relation to a professional matter and the communications arise from the relationship of lawyer client.*

I am satisfied that a legal adviser-client relationship existed at the time the legal advice summarised in the documents was produced, on the basis that the advice was given by one of the department's in-house legal advisers holding a current practising certificate and the lawyer was acting in their capacity as a professional legal adviser at the time.

I am advised that the communication between the in-house lawyer and the departmental officer was for the purpose of giving legal advice.

In relation to the last two aspects of legal professional privilege as set out above, I am satisfied the advice was given independently and confidentially. As noted above, the advice was provided by the department's in-house legal advisers who are required to maintain a current practising certificate. Accordingly, the relevant lawyers are subject to the professional standards required of practising lawyers, including providing independent legal advice and there is nothing before me to suggest that the lawyers concerned acted contrary to this when giving the advice. The advice was provided to the officers in the department who sought the advice, and there is nothing to suggest the advice was circulated more broadly, beyond those departmental officers with a business need to access the advice. Accordingly, I am satisfied the advice is confidential.

On this basis, I have decided that the information included in the documents identified in the Schedule of Documents is exempt under section 42 of the FOI Act.

#### Section 47C of the FOI Act – deliberative processes

I have applied the conditional exemption in section 47C(1) of the FOI Act to the documents identified in the Schedule of Documents.

Subsection 47C(1) of the FOI Act relevantly 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...*

The FOI Guidelines relevantly provide at paragraph 6.58 that a deliberative process 'involves the exercise of judgement in developing and making a selection from different options' and at paragraph 6.59 that it 'generally refers to the process of weighing up or evaluating competing arguments or considerations or to thinking processes' such as, for example, reflecting on the 'wisdom and expediency of a proposal'.

The documents identified in the Schedule of Documents as conditionally exempt under this provision contain recommendations, opinions and advice that were prepared and recorded by officers of the department in regard to the courtesy consultation received from Services Australia. I am satisfied that this material constitutes deliberative material.



The courtesy consultation received from Services Australia related to documents concerning child care policies for which the department is responsible. I am satisfied that the deliberative material in the documents identified in the Schedule of Documents was prepared and recorded for the purposes of the department considering Services Australia's courtesy consultation in accordance with the department's functions.

To the extent that the documents identified in the Schedule of Documents contain factual material, I consider that the information is intertwined with the deliberative content such that it cannot reasonably or practically be separated. I am also of the view that this information forms an integral part of the deliberative content and purpose of the document.

I have decided that the material identified in the Schedule of Documents is conditionally exempt under section 47C of the FOI Act. I have discussed the public interest considerations below under the heading 'Public interest'.

#### Section 47E(d) of the FOI Act – operations of agencies

I have applied the conditional exemption in section 47E(d) of the FOI Act to the documents identified in the Schedule of Documents.

Section 47E(d) of the FOI Act relevantly provides that:

- (1) *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.*

Paragraph 6.123 of the FOI Guidelines provides, in relation to section 47E(d) of the FOI Act, that:

*The predicted effect must bear on the agency's 'proper and efficient' operations, that is, the agency is undertaking its expected activities in an expected manner. Where disclosure of the documents reveals unlawful activities or inefficiencies, this element of the conditional exemption will not be met and the conditional exemption will not apply.*

The documents identified in the Schedule of Documents contain positional email addresses. The positional email addresses are used by staff within the department to communicate with particular departmental teams. These are established communication channels within the department and are not publicly available.

The department has established contact methods for the public to enable the department to manage the volume of correspondence and communications it receives. These methods include dedicated telephone numbers, external email addresses, postal addresses and other online mechanisms. The release of the positional email addresses could reasonably be expected to undermine the established methods for contacting the department by allowing

members of the public to contact departmental officers through additional avenues, thereby disrupting the department's usual operations.

For these reasons, I have decided that the positional email addresses are conditionally exempt under section 47E(d) of the FOI Act. I have discussed the public interest considerations below under the heading 'Public interest'.

#### Section 47F of the FOI Act - personal information

I have applied the conditional exemption in section 47F(1) of the FOI Act to documents identified in the Schedule of Documents.

Section 47F of the FOI Act relevantly provides:

- (1) *A document is conditionally exempt if its disclosure under this Act would involve the unreasonable disclosure of personal information about any person (including a deceased person).*
- (2) *In determining whether the disclosure of the document would involve the unreasonable disclosure of personal information, an agency or Minister must have regard to the following matters:*
  - (a) *the extent to which the information is well known;*
  - (b) *whether the person to whom the information relates is known to be (or to have been) associated with the matters dealt with in the document;*
  - (c) *the availability of the information from publicly accessible sources;*
  - (d) *any other matters that the agency or Minister considers relevant.*

#### *Personal information*

Personal information is information or an opinion about an identified individual, or an individual who is reasonably identifiable:

- whether the information or opinion is true or not
- whether the information or opinion is recorded in a material form or not.

Paragraph 6.130 of the FOI Guidelines provides that personal information can include the name, address, telephone number, date of birth, medical records, bank account details, taxation information and signature of a person.

I find that documents identified in the Schedule of Documents contain personal information of Senior Executive Service officers. This includes their contact details and physical addresses which are not publicly available.

### *Unreasonable disclosure*

In addition to the factors specified in section 47F(2) of the FOI Act, paragraph 6.138 of the FOI Guidelines provides:

*The personal privacy exemption is designed to prevent the unreasonable invasion of third parties' privacy. The test of unreasonableness implies a need to balance the public interest in disclosure of government-held information and the private interest in the privacy of individuals.*

I am satisfied that the disclosure of the personal information would be unreasonable for the following reasons:

- it relates to aspects of the personal affairs of individuals
- the information is not well-known and not available in full or in part from publicly-accessible sources
- the FOI Act does not control or restrict any subsequent use or dissemination of information released under the FOI Act
- the identity of the individuals concerned is readily apparent
- release of the documents would cause stress on the individuals concerned
- no public purpose would be achieved through release of the information
- disclosure of the information would not advance the public interest in government transparency and integrity.

On this basis, I have decided that the personal information in the abovementioned documents is conditionally exempt under section 47F(1) of the FOI Act. I have discussed the public interest considerations below under the heading 'Public interest'.

### **Public interest**

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.*

When weighing the public interest for and against disclosure under subsection 11A(5) of the FOI Act, I have taken into account relevant factors in favour of disclosure. I consider that disclosure of the information would, to a small extent, promote the objects of the FOI Act. Having regard to the content of the documents, I am not satisfied that access to the conditionally exempt material would inform debate on a matter of public importance, promote effective oversight of public expenditure or provide you access to your own personal information.

I have also considered the relevant factors weighing against disclosure, indicating that disclosure of the conditionally exempt material would be contrary to the public interest. In particular, I have considered the extent to which disclosure could reasonably be expected to:

- adversely impact the giving of opinion, advice and recommendations in relation to deliberative processes of the department. In turn, this could reasonably be expected to have an adverse impact on the effectiveness of interagency consultations in the future.
- prejudice the confidentiality of the Cabinet process by disclosing material relating to Cabinet deliberations
- impede the department's ability to effectively manage correspondence from members of the public by disclosing positional email addresses
- prejudice the right of individuals to privacy
- adversely affect or harm the interests of an individual or group of individuals.

Based on these factors, I have decided that, in this instance, the public interest in disclosing the information in the abovementioned documents is outweighed by the public interest against disclosure.

I have not taken into account any of the irrelevant factors set out in section 11B(4) of the FOI Act in making this decision.

### **Conclusion**

In summary, I am satisfied that the documents or parts of documents, as set out in the Schedule of Documents, are exempt under sections 34 and 42 of the FOI Act.

I am also satisfied that the documents, as set out in the Schedule of Documents, are conditionally exempt under sections 47C, 47E(d) and 47F(1) of the FOI Act. I have decided that, on balance, it would be contrary to the public interest to disclose the conditionally exempt material. Accordingly, I have decided not to release the exempt material to you.

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

## YOUR RIGHTS OF REVIEW

### Asking for a formal review of an FOI decision

If you believe the decision is incorrect, the FOI Act gives you the right to apply for a review of the decision. Under sections 54 and 54L of the FOI Act, you can apply for a review of an FOI decision by:

- an internal review officer in the department and/or
- the Australian Information Commissioner.

There are no fees for applying for a formal review.

### Applying for an internal review by an internal review officer

If you apply for internal review, a different decision maker to the decision maker who made the original decision will review your request. The internal review decision maker will consider all aspects of the original decision afresh and decide whether the decision should change.

An application for internal review must be made in writing within 30 days of receiving this letter. You can lodge your application by email to [foi@education.gov.au](mailto:foi@education.gov.au).

### Applying for external review by the Australian Information Commissioner

If you do not agree with the original decision or the internal review 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](https://forms.business.gov.au/smartforms/servlet/SmartForm.html?formCode=ICR_10)

Email: [foidr@oaic.gov.au](mailto: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](https://forms.business.gov.au/smartforms/servlet/SmartForm.html?formCode=ICCA_1)

Email: [foidr@oaic.gov.au](mailto:foidr@oaic.gov.au)

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Post: Australian Information Commissioner  
GPO Box 5218  
SYDNEY NSW 2001