



23 November 2023

Our reference: LEX 76245

Frank n Fearless (Right to Know)

Only by email: foi+request-10728-d39d05fc@righttoknow.org.au

Dear Frank N Fearless

Decision on your Freedom of Information Request

I refer to your request, received by Services Australia (the Agency) on 3 October 2023 for access under the *Freedom of Information Act 1982* (the FOI Act) made in the following terms:

According to DSS' Answer to Senate Question on Notice IQ23-000076

"Services Australia has commenced undertaking a desktop sampling exercise of approximately 1,000 potential overpayments that may potentially be impacted by the use of income apportionment of employment income prior to 7 December 2020.

It is not possible to state with certainty when this work will be completed. This will be clearer as the work progresses. Services Australia are providing regular reports on progress to the Department of Social Services"

I would like a copy of these "regular reports on progress".

My decision

The Agency holds one document (totalling 61 pages) relating to your request.

I have decided to grant you **part access** to one document with some of the content removed.

I have decided certain parts of the document you have requested are exempt under the FOI Act as the document includes:

- information that, if released, would, or could reasonably be expected to have a substantial adverse effect on the proper and efficient conduct on the operations of the Agency and disclosure is contrary to the public interest (section 47E(d) conditional exemption), and
- personal information of third parties, disclosure of which would be unreasonable and contrary to the public interest (section 47F(1) conditional exemption).

Please see the schedule at **Attachment A** to this letter for a description of the document and the reasons for my decision, including the relevant sections of the FOI Act.

How we will send your document to you

The document is attached.

You can ask for a review of our 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 from within the Agency, or an external review by the Office of the Australian Information Commissioner. You do not have to pay for a review of the decision. See **Attachment B** for more information about how to request a review.

Further assistance

If you have any questions please email FOI.LEGAL.TEAM@servicesaustralia.gov.au.

Yours sincerely

TY
Authorised FOI Decision Maker
Freedom of Information Team
FOI and Ombudsman Branch | Legal Services Division
Services Australia



SCHEDULE OF DOCUMENT FOR RELEASE
Frank N Fearless (Right to Know) - LEX 76245

Doc No.	Pages	Date	Description	Decision	Exemption	Comments
1.	1 – 61	Various	Email correspondence from Services Australia to the Department of Social Services regarding income apportionment sampling.	Release in part	s 47E(d) s 47F(1) s 22	Operational information in relation to the proper and efficient conduct of the operations of an agency deleted under s 47E(d) Personal information of third parties removed under s 47F. Junior staff details removed under s22 (out of scope).



REASONS FOR DECISION

What you requested

According to DSS' Answer to Senate Question on Notice IQ23-000076

"Services Australia has commenced undertaking a desktop sampling exercise of approximately 1,000 potential overpayments that may potentially be impacted by the use of income apportionment of employment income prior to 7 December 2020.

It is not possible to state with certainty when this work will be completed. This will be clearer as the work progresses. Services Australia are providing regular reports on progress to the Department of Social Services"

I would like a copy of these "regular reports on progress".

Staff details

On 20 October 2023 the Agency acknowledged your request and advised you we would not include personal details about our staff (such as their names) in the scope of your request. You did not contact the Agency again about this. Staff details have therefore been redacted in accordance with section 22(1) of the FOI Act.

What I took into account

In reaching my decision I took into account:

- your request dated 3 October 2023
- other correspondence with you
- the document which falls within the scope of your request
- consultation with other Government Departments regarding the nature of the document
- whether the release of material is in the public interest
- consultations with Agency officers about:
 - the nature of the document
 - the Agency's operating environment and functions
- guidelines issued by the Australian Information Commissioner under section 93A of the FOI Act (the Guidelines), and
- the FOI Act.

Reasons for my decision

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

I have decided parts of the document you requested are exempt under the FOI Act. My findings of fact and reasons for deciding the exemptions apply to the document are discussed below.

Conditional Exemption - 47E(d) of the FOI Act - operations of an agency

I have applied the conditional exemption in section 47E(d) to Document 1.

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

A document is conditionally exempt if its disclosure under this Act would, or could reasonably be expected to... have a substantial adverse effect on the on the proper and efficient conduct of the operations of an agency.

The document contains information in relation to the conduct and operations of the Agency. Specifically, it contains internal facing emails not available to the public.

The Agency's purpose is to provide high-quality government services and payments to Australians. It is a large, public facing, government organisation with many points of contact designed to facilitate its purpose. Because of this, the Agency receives a significant volume of correspondence from customers and members of the public each date. The Agency's Annual Report provides that in 2021-2022, the Agency managed:

- 1.2 billion online transactions
- 73 million calls, and
- 9.3 million service centre engagements.

The Agency has established channels of communication and designated contact points for customers and members of the public, which have been put in place to ensure the effective management of the significant volume of communication received. Such channels include dedicated and externally published positional mailboxes of different business areas within the Agency. These have been established to ensure correspondence is directed to the correct area and actioned accordingly. These established channels are monitored to ensure quality of service and ensure the Agency is able to respond to increased demand in a particular service as required.

Substantial peripheral work occurs in handling an enquiry, including filing, record keeping, and statistical analysis. Ensuring customers contact a dedicated Agency line or publicly available positional mailbox guarantees the call or email can be appropriately triaged, there is a record of the contact and information can be collected to assist in the design and delivery of services. Doing so also assists Agency management to direct resources to where they are most needed and rapidly respond to a surge in workload to avoid interruptions in service.

If contact were received directly, the onus of recording much of this data (which in most cases is currently automatically collected) would fall upon individual staff members, who would need to manually complete these tasks. This would negatively affect customers as more staff effort would be diverted to this task, and away from the provision of critical services. If this information is not recorded accurately, the integrity of Agency record keeping and reporting would be jeopardised, creating further difficulties in managing the correspondence received by the agency.

If internal positional mailbox details were released, this would have a substantial adverse effect on the proper and efficient conduct of the operations of the Agency for the following reasons:

- these are not in the public domain, and are intended to be used to facilitate confidential and prompt communications within the Agency
- correspondence received and directed could be mishandled, lost, duplicated or double-handled on account of it not being directed to the most appropriate teams through the publicly available communication channels.
- from time to time, email addresses are deleted or changed due to operational requirements, and if a member of the public sends an email to such an address, there is a high probability the email would not be actioned. This may result in services not being administered correctly, or at all.

Noting the Agency's interactions with the public number in the millions and billions, diverting people from correct channels cannot be appropriately categorised as 'insubstantial' or 'nominal'.

As such, I am satisfied the disclosure of internal positional mailboxes would, or could reasonably be expected to, have a substantial adverse effect on the proper and efficient conduct of Agency operations.

Accordingly, I have decided apply this conditional exemption to parts of the document as it contains material which, if disclosed, would or could reasonably be expected to have a substantial adverse effect on the on the proper and efficient conduct of the operations of an agency.

Public interest considerations

Section 11A(5) of the FOI Act provides the following:

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 up 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.

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 prejudice the operational functions of the Agency, and undermine existing mechanisms of contacting the Agency, resulting in a limited ability for the Agency to provide essential services to the Australia public.

Having regard to the factors above, I have decided that in the circumstances of this particular matter, the public interest in disclosing the information in the document is outweighed by the public interest against disclosure.

Section 47F of the FOI Act - unreasonable disclosure of personal information

I have applied the conditional exemption in section 47F(1) to part of Document 1 as noted in the Schedule.

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

The term 'personal information' is defined as follows:

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

- (a) whether the information or opinion is true or not; and
- (b) whether the information or opinion is recorded in a material form or not.

Paragraph 6.130 of the Guidelines provides:

Personal information can include a person's name, address, telephone number, date of birth, medical records, bank account details, taxation information and signature.

Document 1 contains personal information of other people. This includes their direct phone numbers, postal addresses and email addresses.

Whether disclosure is 'unreasonable'

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

In deciding if the disclosure of certain third-party personal information would be unreasonable, I have considered the following factors:

- the nature, age and current relevance of the information
- any detriment that disclosure may cause to the person to whom the information relates
- any opposition to disclosure expressed or likely to be held by that person
- the circumstances of the Agency's collection and use of the information, and
- the fact the FOI Act does not control or restrict any subsequent use or dissemination of information released under the FOI Act.

I am satisfied the disclosure of certain third-party personal information would be unreasonable for the following reasons:

- it relates to aspects of an individual's personal affairs
- you do not have the consent from these individuals for the release of their personal information, and
- the information is private and not available in full or in part from publicly-accessible sources.

On this basis, I have decided the personal information included in Document 1 is conditionally exempt under section 47F(1) of the FOI Act.

Public interest considerations

Section 11A(5) of the FOI Act as extracted above requires me to have regard to the public interest. When weighing up 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.

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:

- prejudice an individual's right to privacy, and
- adversely affect or harm the interests of an individual or group of individuals, including current employees of the Agency and third parties.

Based on these factors, I have decided that in the circumstances of this particular matter, the public interest in disclosing the parts of Document 1 to which this conditional exemption has been applied 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 the Document 1 is conditionally exempt under section 47F(1) of the FOI Act. Furthermore I have decided on balance it would be contrary to the public interest to release this information. Accordingly, I have decided not to release the document in full to you.

As identified in the Schedule, I have deleted the exempt information in the document and released the remaining material in accordance with section 22(1) of the FOI Act.

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.

Summary of my decision

In conclusion, I have decided to grant you part access to one document.

I have decided:

- Document 1 is conditionally exempt, in part, under section 47E(d) of the FOI Act,
- Document 1 is conditionally exempt, in part, under section 47F(1) of the FOI Act, and
- disclosure would be contrary to the public interest for the purposes of section 11A(5).



Attachment B

INFORMATION ON RIGHTS OF REVIEW

FREEDOM OF INFORMATION ACT 1982

Asking for a full explanation of a Freedom of Information (FOI) decision

Before you ask for a formal review of a FOI decision, you can contact us to discuss your request. We will explain the decision to you. This gives you a chance to correct misunderstandings.

Asking for a formal review of a FOI decision

If you still believe a decision is incorrect, the *Freedom of Information Act 1982 (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:

1. an Internal Review Officer in Services Australia (the Agency); and/or
2. the Australian Information Commissioner.

Note 1: There are no fees for these reviews.

Applying for an internal review by an Internal Review Officer

If you apply for internal review, a different decision maker to the Agency delegate who made the original decision will carry out the review. The Internal Review Officer will consider all aspects of the original decision and decide whether it should change. An application for internal review must be:

- made in writing
- made within 30 days of receiving this letter
- sent to the address at the top of the first page of this letter or by email to freedomofinformation@servicesaustralia.gov.au

Note 2: You do not need to fill in a form. However, it is a good idea to set out any relevant submissions you would like the Internal Review Officer to further consider, and your reasons for disagreeing with the decision.

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.

If you do not receive a decision from an Internal Review Officer in the Agency within 30 days of applying, you can ask the Australian Information Commissioner for a review of the original FOI decision.

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

You can **lodge your application**:

Online: www.oaic.gov.au
Post: Australian Information Commissioner
GPO Box 5218
SYDNEY NSW 2001
Email: enquiries@oaic.gov.au

Note 3: The Office of the Australian Information Commissioner generally prefers FOI applicants to seek internal review before applying for external review by the Australian Information Commissioner.

Important:

- If you are applying online, the application form the 'FOI Review Form' is available at www.oaic.gov.au.
- If you have one, you should include with your application a copy of the Agency's decision on your FOI request
- Include your contact details
- Set out your reasons for objecting to the Agency's decision.

Complaints to the Australian Information Commissioner and Commonwealth Ombudsman

Australian Information Commissioner

You may complain to the Australian Information Commissioner concerning action taken by an agency in the exercise of powers or the performance of functions under the FOI Act, There is no fee for making a complaint. A complaint to the Australian Information Commissioner must be made in writing. The Australian Information Commissioner's contact details are:

Telephone: 1300 363 992
Website: www.oaic.gov.au

Commonwealth Ombudsman

You may also complain to the Commonwealth Ombudsman concerning action taken by an agency in the exercise of powers or the performance of functions under the FOI Act. There is no fee for making a complaint. A complaint to the Commonwealth Ombudsman may be made in person, by telephone or in writing. The Commonwealth Ombudsman's contact details are:

Phone: 1300 362 072
Website: www.ombudsman.gov.au

The Commonwealth Ombudsman generally prefers applicants to seek review before complaining about a decision.