
From: s 47F
Sent: Wednesday, 22 August 2012 12:00 PM
To: Alan March
Cc: Rush, Peter; s 47F
Subject: RE: Humanitarian Overseas Service Medal (Iraq) Declaration [SEC=UNCLASSIFIED]

Alan, in your absence, I spoke with s 47F about handling – s 47F are you happy to fill Alan in, in the first instance?

Thanks,

s 47F

From: Alan March [mailto:Alan.March@ausaid.gov.au]
Sent: Wednesday, 22 August 2012 11:54 AM
To: s 47F
Cc: Rush, Peter; s 47F
Subject: RE: Humanitarian Overseas Service Medal (Iraq) Declaration [SEC=UNCLASSIFIED]

s 47F Peter,

Any movement? No angst in this, but I would be keen to know of progress.

Cheers
alan

Alan March

Assistant Director General | Humanitarian Preparedness and Response | AusAID
Ph s 47E(d) | Fax s 47E(d) | Mobile s 47F

From: s 47F [mailto:s 47F@pmc.gov.au]
Sent: Wednesday, 11 April 2012 5:42 PM
To: Alan March
Cc: Rush, Peter; s 47F
Subject: RE: Humanitarian Overseas Service Medal (Iraq) Declaration [SEC=UNCLASSIFIED]

That's all very helpful, thanks Alan, we will settle the declaration on the basis of that advice, and brief PSPM next week. Cross your fingers!

s 47F

From: Alan March [mailto:Alan.March@ausaid.gov.au]
Sent: Wednesday, 11 April 2012 5:15 PM
To: s 47F
Cc: Rush, Peter; s 47F
Subject: RE: Humanitarian Overseas Service Medal (Iraq) Declaration [SEC=UNCLASSIFIED]

s 47F

s 47G

I trust this assists.

Cheers
alan

Alan March

Assistant Director General | Humanitarian Preparedness and Response | AusAID
Ph s 47E(d) | Fax s 47E(d) | Mobile s 47F

From: s 47F @pmc.gov.au
Sent: Wednesday, 11 April 2012 8:42 AM
To: Alan March
Cc: Rush, Peter; s 47F
Subject: FW: Humanitarian Overseas Service Medal (Iraq) Declaration [SEC=UNCLASSIFIED]

Alan,

s 42

s 47G

Any other comments welcome.

Thanks,

s 47F

s 42

From: s 47F
To: s 47F
Cc: FOI
Subject: RE: FOI/2021/267 - Trav S (Via Right to Know Website) - Appointment of decision maker [SEC=OFFICIAL]
Date: Thursday, 21 October 2021 1:37:28 PM
Attachments: [New FOI request - seeking advice and decision maker - s 22\(1\)\(a\)\(ii\)](#)
[SECOFFICIAL.msg](#)
[image005.png](#)

OFFICIAL

Hi s , can you please prepare a decision maker email to Peter Rush for this matter as per attached example?

Thanks

s

From: s 47F <s 47F@pmc.gov.au>
Sent: Wednesday, 20 October 2021 8:53 AM
To: FOI <FOI@pmc.gov.au>
Subject: RE: FOI/2021/267 - Trav S (Via Right to Know Website) - Appointment of decision maker [SEC=OFFICIAL]

OFFICIAL

Thanks for pointing me in the right direction s 47F It is much appreciated.

Kind regards

s 47F | Adviser
 FOI Section | Legal Policy Branch
 s 22(1)(a)(ii)
I work Monday to Thursday

From: FOI <FOI@pmc.gov.au>
Sent: Tuesday, 19 October 2021 5:26 PM
To: s 47F <s 47F@pmc.gov.au>; s 47F <s 47F@pmc.gov.au>
Subject: RE: FOI/2021/267 - Trav S (Via Right to Know Website) - Appointment of decision maker [SEC=OFFICIAL]

OFFICIAL

Hi s

For some reason this came up when I searched the FOI inbox for "right to information". I was looking for an email from Queensland DPC and found it.

If s hasn't responded, the DM for this matter is likely Peter Rush who is in our Division. It relates to the Honours and Symbols team which sits in Peter's branch.

There have been a fair few requests from this applicant over the years. s 47F is likely to be Peter's contact officer and he will be the person to talk through this background with you.

Kind regards

s 47F

s 47F | Adviser

Legal Policy Branch

Department of the Prime Minister and Cabinet

Ngunnawal Country, One National Circuit Barton ACT 2600 | PO Box 6500 CANBERRA ACT 2600

e. s 47F @pmc.gov.au w. pmc.gov.au



The Department acknowledges and pays respect to the past, present and emerging Elders and Traditional Custodians of Country, and the continuation of cultural, spiritual and educational practices of Aboriginal and Torres Strait Islander peoples.

From: s 47F

Sent: Tuesday, 19 October 2021 4:12 PM

To: s 47F @pmc.gov.au

Subject: FOI/2021/267 - Trav S (Via Right to Know Website) - Appointment of decision maker [SEC=OFFICIAL]

OFFICIAL

Hello s

PM&C has received an FOI request from the applicant above, a copy of the request is attached.

The applicant refers to PM&C correspondence to AusAID/DFAT on 19/3/2012 and 11/4/2012 regarding a proposed Brief to PSPM Jan McLucas entitled 'amendment of humanitarian overseas service medal (Iraq) declaration 2004 to extend to specified commercial contractors'. I understand the scope of the request to be:

- For correspondence from the PM&C to AusAID/DFAT subsequent to the PM&C emails referred to above. The applicant has specified a date range between 11/4/2012 and 5/12/2012.

Would Ministerial & Parliamentary Support be the most appropriate area to seek a decision maker? Callie Zorzi appears to be the Assistant Secretary with responsibility for Departmental Liaison. Should I write to Callie regarding appointment as DM, or is there a more appropriate person/area to assign this to?

Please let me know

Happy to discuss.

s 47F | Adviser

FOI Section | Legal Policy Branch

s 22(1)(a)(ii)

I work Monday to Thursday

s 22(1)(a)(ii)

We received a new FOI request (attached) from s 22(1)(a)(ii) :

s 22(1)(a)(ii)

Next Steps – Action Required

We would be grateful if you could please:

- review the request and advise the FOI&P team (foi@pmc.gov.au) if you would be the appropriate decision-maker based on the subject matter;
- should you be the appropriate decision-maker, provide the details of a Contact Officer to assist with processing the request;
- consider the scope of the request, including clarity, potential volume of documents and inform the FOI&P team if you consider this scope unclear and will require clarification from the applicant or whether other branches or divisions within the Department will be involved.

s 47F will be in contact to organise an initial meeting after your confirmation.

Please contact us if you have any queries or wish to discuss.

Kind regards

s 47F | Adviser/Administration Officer

FOI Section | Legal Policy Branch

s 22(1)(a)(ii)

The Department acknowledges and pays respect to the past, present and emerging Elders and Traditional Custodians of Country, and the continuation of cultural, spiritual and educational practices of Aboriginal and Torres Strait Islander peoples.

s 22(1)(a)(ii)

From: FOI
Sent: Friday, 22 October 2021 2:08 PM
To: Foster, Stephanie; Reid, John; Gartmann, Petra; s 47F PMC Media; PMO - Senior Media Team; s 47F
Cc: Rush, Peter; FOI
Subject: Notification of new FOI request and decision maker - (FOI/2021/267) - Trav S (via Right to Know Website) - Correspondence to AusAID re HOSM Eligibility [SEC=OFFICIAL]
Attachments: FOI-2021-267 - FOI Request.pdf
Categories: Copy

OFFICIAL

Dear Colleagues

On 18 October 2021, PM&C received a new FOI request (**attached**) from Trav S (via Right to Know Website) in the following terms:

On 19 March 2012, your department emailed AusAID (DFAT) stating 'further to your recent discussion with Peter, here's draft text for your consideration that we propose to brief the new PSPM Senator Jan McLucas with soon'. Titled 'amendment of humanitarian overseas service medal (iraq) declaration 2004 to extend to specified commercial contractors' the document recommended the PSPM:

- '1. Sign the letter to the Governor-General recommending she makes a declaration under HOSM Regulations 2011, extending eligibility for the 'Iraq' clasp to the medal, to specified commercial contractors (Attachment A).*
- 2. Sign the proposed Humanitarian Overseas Service Medal (Iraq) Declaration 2011 (Attachment B).'*

On 11 April 2012 your department emailed AusAID (DFAT) providing a written agreement to 'settle the declaration ... and brief the PSPM next week'. However FOI investigations reveal your department evidently withheld the documents from PSPM McLucas.

Please provide a copy of your department's subsequent correspondence to AusAID regarding this matter. Please limit the search to subsequent correspondence occurring between 11 April and 5 December 2012.

The decision maker for this request is Peter Rush, Assistant Secretary, Parliamentary and Government Branch.

Kind regards

s
47F

s 47F | Adviser/Administration Officer

FOI Section | Legal Policy Branch

p. s 22(1)(a)(ii)

The Department acknowledges and pays respect to the past, present and emerging Elders and Traditional Custodians of Country, and the continuation of cultural, spiritual and educational practices of Aboriginal and Torres Strait Islander peoples.

From: [FOI](#)
To: [s 47F](#); [Rush, Peter](#); [FOI](#)
Subject: RE: Approving searches for FOI/2021/267 - Trav S - corro from Dept to AusAid in 2012 [SEC=OFFICIAL]
Date: Monday, 25 October 2021 12:02:09 PM
Attachments: [image006.png](#)

OFFICIAL

Thanks [s 47F](#), I didn't think so either.

I agree it would be good to just have a quick look through the files and confirm.

Thanks

[s 47F](#)

From: [s 47F](#) <[s 47F](#)>@pmc.gov.au>
Sent: Monday, 25 October 2021 11:51 AM
To: Rush, Peter <[xxxxx.xxxx@xxx.xxx.xx](#)>; FOI <[xxx@xxx.xxx.xx](#)>
Subject: RE: Approving searches for FOI/2021/267 - Trav S - corro from Dept to AusAid in 2012 [SEC=OFFICIAL]

OFFICIAL

Hi [s 47F](#)

I agree with the scope of the email search as fitting the request.

In terms of non-email corro on file, I do not believe there would be anything on our paper files on this matter based on my recollection.

I am going into the office this Wednesday and am happy to take a quick look anyway.

Regards,

[s 47F](#)

From: Rush, Peter <[xxxxx.xxxx@xxx.xxx.xx](#)>
Sent: Monday, 25 October 2021 11:44 AM
To: FOI <[xxx@xxx.xxx.xx](#)>; [s 47F](#) <[s 47F](#)>@pmc.gov.au>
Subject: RE: Approving searches for FOI/2021/267 - Trav S - corro from Dept to AusAid in 2012 [SEC=OFFICIAL]

OFFICIAL

Thanks [s 47F](#)

I agree with proposed email search terms.

[s 47F](#) should be able to confirm whether there is any non-email corro on file, about this matter between PM&C and AusAid.

Cheers - Rush

From: FOI <[xxx@xxx.xxx.xx](#)>

Sent: Monday, 25 October 2021 10:41 AM

To: Rush, Peter <xxxxx.xxxx@xxx.xxx.xx>; s 47F s 47F @pmc.gov.au>

Cc: FOI <xxx@xxx.xxx.xx>

Subject: Approving searches for FOI/2021/267 - Trav S - corro from Dept to AusAid in 2012 [SEC=OFFICIAL]

OFFICIAL

Good morning Rush and s 47F

Trav S has made the below/attached request – it is in a similar vein to the one other Trav S matter in which I was the FOI case officer. The request seems clear.

Could you please advise if the requested correspondence would be contained in non-email files?

If not, I'd suggest conducting email searches as follows:

FOI Number	Search Date Range	1 st Search Criterion	2 nd Search Criterion	3 rd Search Criterion
FOI/2021/267	11 April 2012 to 5 December 2012	Emails from: @pmc.gov.au email addresses to: @ausaid.gov.au email addresses	Emails must contain the following: "Humanitarian Overseas Service Medal" OR "HOSM"	Emails must contain the following: "Iraq"

Happy to discuss.

s 47F

| Adviser

Legal Policy Branch

Department of the Prime Minister and Cabinet

Ngunnawal Country, One National Circuit Barton ACT 2600 | PO Box 6500 CANBERRA ACT 2600

e. s 47F @pmc.gov.au w. pmc.gov.au



The Department acknowledges and pays respect to the past, present and emerging Elders and Traditional Custodians of Country, and the continuation of cultural, spiritual and educational practices of Aboriginal and Torres Strait Islander peoples.

From: FOI <xxx@xxx.xxx.xx>

Sent: Thursday, 21 October 2021 4:15 PM

To: Rush, Peter <xxxxx.xxxx@xxx.xxx.xx>

Cc: FOI <xxx@xxx.xxx.xx >; s 47F @pmc.gov.au>; s 47F
@pmc.gov.au>

Subject: New FOI request – seeking advice and decision maker – (FOI/2021/267) - Trav S (via Right to Know Website) [SEC=OFFICIAL]

OFFICIAL

Dear Peter

As discussed with s 47F we received a new FOI request (**attached**) from Trav S (via the Right to Know Website) in the following terms:

Dear PMC, please accept this request for information in accordance with the FOI Act.

On 19 March 2012, your department emailed AusAID (DFAT) stating ‘further to your recent discussion with Peter, here’s draft text for your consideration that we propose to brief the new PSPM Senator Jan McLucas with soon’. Titled ‘amendment of humanitarian overseas service medal (iraq) declaration 2004 to extend to specified commercial contractors’ the document recommended the PSPM:

‘1. Sign the letter to the Governor-General recommending she makes a declaration under HOSM Regulations 2011, extending eligibility for the ‘Iraq’ clasp to the medal, to specified commercial contractors (Attachment A).

2. Sign the proposed Humanitarian Overseas Service Medal (Iraq) Declaration 2011 (Attachment B).’

On 11 April 2012 your department emailed AusAID (DFAT) providing a written agreement to ‘settle the declaration ... and brief the PSPM next week’. However FOI investigations reveal your department evidently withheld the documents from PSPM McLucas.

Please provide a copy of your department's subsequent correspondence to AusAID regarding this matter. Please limit the search to subsequent correspondence occurring between 11 April and 5 December 2012.

Thank you for confirming that you are the appropriate decision maker for this request, and that s 47F is the contact officer.

Next Steps – Action Required

We would be grateful if you could please:

- consider the scope of the request, including clarity, potential volume of documents and inform the FOI team if you consider this scope unclear and will require clarification from the applicant or whether other branches or divisions within the Department will be involved.

s 47F will be in contact to organise an initial meeting.

Please contact us if you have any queries or wish to discuss.

Kind regards

s 47F | Adviser/Administration Officer
FOI Section | Legal Policy Branch
p. s 22(1)(a)(ii)



The Department acknowledges and pays respect to the past, present and emerging Elders and Traditional Custodians of Country, and the continuation of cultural, spiritual and educational practices of Aboriginal and Torres Strait Islander peoples.

s 22(1)(a)(ii)

From: FOI
Sent: Wednesday, 27 October 2021 5:41 PM
To: s 47F FOI
Cc: Rush, Peter
Subject: RE: FOI Search request - FOI/2021/267 [SEC=OFFICIAL]

Categories: Copy

Great, thanks s 47F

s 47F @pmc.gov.au
Sent: Wednesday, 27 October 2021 5:37 PM
To: FOI <FOI@pmc.gov.au>
Cc: Rush, Peter <Peter.Rush@pmc.gov.au>
Subject: FW: FOI Search request - FOI/2021/267 [SEC=OFFICIAL]

Good afternoon s 47F

As discussed, I have searched our paper files and confirm that there are no other papers that fit the scope of this request.

Regards,

s 47F

From: s 47F @pmc.gov.au
Sent: Wednesday, 27 October 2021 10:52 AM
To: FOI <FOI@pmc.gov.au>
Cc: Rush, Peter <Peter.Rush@pmc.gov.au>; s 47F @pmc.gov.au
Subject: RE: FOI Search request - FOI/2021/267 [SEC=OFFICIAL]

Hi s 47F,

I have exported the search results and placed them on your, s 47F and Peter's H: drive. They are in a folder called H:\ FOI-2021-267.

PST import instructions:

To browse the items you will need to add the files to your Outlook.

1. In Outlook, click File
2. Click Open & Export
3. Click Open Outlook Data File
4. Browse for the files on your H:\ drive, select one and then and click OK
5. The file will appear like a new mailbox. Expand the file contents by clicking on the right facing arrow next to the name
6. The search results are in a folder called Root Items (not inbox)

Thanks,

s 47F Infrastructure Support
 ICT Service Delivery Section | Information Services Branch
 P. s 22(1)(a)(ii) | E. s 47F @pmc.gov.au

s 47E(d)

s 47E(d)

The Department acknowledges the traditional owners of country throughout Australia and their continuing connection to land, sea and community. We pay our respects to them and their cultures and to their elders both past and present.

From: FOI <FOI@pmc.gov.au>
Sent: Tuesday, 26 October 2021 4:41 PM
To: s 47F @pmc.gov.au; FOI <FOI@pmc.gov.au>
Cc: Rush, Peter <Peter.Rush@pmc.gov.au>; s 47F @pmc.gov.au
Subject: RE: FOI Search request - FOI/2021/267 [SEC=OFFICIAL]

Thanks so much s 47F – can you please export those results to me s 47F and Peter Rush?

Kind regards

s 47F

s 47F | Adviser
 Legal Policy Branch
 Department of the Prime Minister and Cabinet
 Ngannawal Country, One National Circuit Barton ACT 2600 | PO Box 6500 CANBERRA ACT 2600
 e. s 47F @pmc.gov.au w. pmc.gov.au

From: s 47F <[redacted]@pmc.gov.au>
Sent: Tuesday, 26 October 2021 3:10 PM
To: FOI <FOI@pmc.gov.au>
Cc: Rush, Peter <Peter.Rush@pmc.gov.au>; s 47F <[redacted]@pmc.gov.au>
Subject: RE: FOI Search request - FOI/2021/267 [SEC=OFFICIAL]

OFFICIAL

Hi s 47F

I have run the following search:-

FOI Number	Search Date Range	1 st Search Criterion	2 nd Search Criterion	3 rd Search Criterion	Results
FOI/2021/267	11 April 2012 to 5 December 2012	Emails from: @pmc.gov.au email addresses to: @ausaid.gov.au email addresses	Emails must contain the following: "Humanitarian Overseas Service Medal" OR "HOSM"	Emails must contain the following: "Iraq"	21

Please let me know how you would like to proceed.

Thanks,

s 47F | Infrastructure Support
ICT Service Delivery Section | Information Services Branch
s 22(1)(a)(ii) | s 47F | @pmc.gov.au

s 47E(d)

s 47E(d)

The Department acknowledges the traditional owners of country throughout Australia and their continuing connection to land, sea and community. We pay our respects to them and their cultures and to their elders both past and present.

From: Help - IT Security <[redacted] s 47E(d)>
Sent: Monday, 25 October 2021 1:00 PM
To: Help - IT Service Desk <[redacted] s 47E(d)>; Help - IT Security <[redacted] s 47E(d)>
Subject: RE: FOI Search request - FOI/2021/267 [SEC=OFFICIAL]

OFFICIAL

Search parameters approved.

s 47F | IT Security Adviser | PM&C, APSC, NIAA, NRRRA
Cyber Security | Information Services Branch
Corporate Division | Department of the Prime Minister and Cabinet
s 22(1)(a)(ii) | s 47F | @pmc.gov.au | w. www.pmc.gov.au
One National Circuit Barton ACT 2600 | PO Box 6500 CANBERRA ACT 2600

From: Help - IT Service Desk
Sent: Monday, 25 October 2021 12:56 PM
To: Help - IT Security
Subject: FW: FOI Search request - FOI/2021/267 [SEC=OFFICIAL]

OFFICIAL

Good afternoon,

Could you please approve these parameters and pass back to the service desk

Thanks.

Kind Regards,

s 47E | IT Service Desk

The best way to request help with any IT matter is using the right form in Service Portal:

[Report an IT Issue form](#)

[View ICT Products and Services forms](#)

[Submit a general IT enquiry form](#)

Did you know....you can review the status of your tickets and add comments and notes via [My Open Requests](#)

s 47E(d) s 47E(d)

The Department acknowledges the traditional owners of country throughout Australia and their continuing connection to land, sea and community. We pay our respects to them and their cultures and to their elders both past and present.

[Redacted]

From: FOI <FOI@pmc.gov.au>
 Sent: Monday, 25 October 2021 11:59 AM
 To: Help - IT Service Desk s 47E(d)
 Cc: FOI <FOI@pmc.gov.au>; Rush, Peter <Peter.Rush@pmc.gov.au>; s 47F <s47f@pmc.gov.au>
 Subject: FOI Search request - FOI/2021/267 [SEC=OFFICIAL]

OFFICIAL

Dear IT team,

The Department has received an FOI request (FOI/2021/267) in the following terms:

On 19 March 2012, your department emailed AusAID (DFAT) stating 'further to your recent discussion with Peter, here's draft text for your consideration that we propose to brief the new PSPM Senator Jan McLucas with soon'. Titled 'amendment of humanitarian overseas service medal (iraq) declaration 2004 to extend to specified commercial contractors' the document recommended the PSPM:

'1. Sign the letter to the Governor-General recommending she makes a declaration under HOSM Regulations 2011, extending eligibility for the 'Iraq' clasp to the medal, to specified commercial contractors (Attachment A).

2. Sign the proposed Humanitarian Overseas Service Medal (Iraq) Declaration 2011 (Attachment B).'

On 11 April 2012 your department emailed AusAID (DFAT) providing a written agreement to 'settle the declaration ... and brief the PSPM next week'. However FOI investigations reveal your department evidently withheld the documents from PSPM McLucas.

Please provide a copy of your department's subsequent correspondence to AusAID regarding this matter. Please limit the search to subsequent correspondence occurring between 11 April and 5 December 2012.

FOI search request

We would be grateful if you could please conduct email searches as follows by COB 27 October 2021:

FOI Number	Search Date Range	1 st Search Criterion	2 nd Search Criterion	3 rd Search Criterion
FOI/2021/267	11 April 2012 to 5 December 2012	Emails from: @pmc.gov.au email addresses to: @ausaid.gov.au email addresses	Emails must contain the following: "Humanitarian Overseas Service Medal" OR "HOSM"	Emails must contain the following: "Iraq"

The decision-maker for this request, Peter Rush, Assistant Secretary, Parliamentary and Government, has approved this search request.

Please let us know if you have any questions.

Many thanks
 s 47F

[Redacted] | Adviser
 Legal Policy Branch
 Department of the Prime Minister and Cabinet
 Ngannawal Country, One National Circuit Barton ACT 2600 | PO Box 6500 CANBERRA ACT 2600
 e. s 47F <s47f@pmc.gov.au> w. pmc.gov.au

The Department acknowledges and pays respect to the past, present and emerging Elders and Traditional Custodians of Country, and the continuation of cultural, spiritual and educational practices of Aboriginal and Torres Strait Islander peoples.

s 22(1)(a)(ii)

From: s 47F
Sent: Wednesday, 27 October 2021 5:41 PM
To: FOI
Cc: Rush, Peter
Subject: RE: FOI Search request - FOI/2021/267 [SEC=OFFICIAL]
Attachments: RE: Humanitarian Overseas Service Medal (Iraq) Declaration [SEC=UNCLASSIFIED]; RE: Humanitarian Overseas Service Medal (Iraq) Declaration [SEC=UNCLASSIFIED]; FW: Humanitarian Overseas Service Medal (Iraq) Declaration [SEC=UNCLASSIFIED]

Categories: Copy

Good afternoon s 47F

In terms of emails from the email search, I believe that the three attached ones are relevant to this FOI.

Regards,

s 47F

From: s 47F
Sent: Wednesday, 27 October 2021 5:37 PM
To: FOI <FOI@pmc.gov.au>
Cc: Rush, Peter <Peter.Rush@pmc.gov.au>
Subject: FW: FOI Search request - FOI/2021/267 [SEC=OFFICIAL]

Good afternoon s 47F

As discussed, I have searched our paper files and confirm that there are no other papers that fit the scope of this request.

Regards,

s 47F

s 22 (duplicate copy)

s 22(1)(a)(ii)

From: s 47F
Sent: Wednesday, 11 April 2012 10:33 AM
To: s 47F
Subject: RE: Humanitarian Overseas Service Medal (Iraq) Declaration [SEC=UNCLASSIFIED]

No s 47F I didn't – I redrafted the brief to go forward without the letter though! As soon as you are happy with the draft determination, we will brief PSPM.

Hope all's well with you,

s 47F

From: s 47F @ausaid.gov.au
Sent: Wednesday, 11 April 2012 9:01 AM
To: s 47F
Subject: RE: Humanitarian Overseas Service Medal (Iraq) Declaration [SEC=UNCLASSIFIED]

s 47F

Did you get a copy of the letter you were after?

s 47F

Director | Humanitarian Emergency Response Section | AusAID
Ph s 22(1)(a)(ii)

s 22 (duplicate copy)

From: [FOI](#)
To: [s 47F](#); [FOI](#)
Cc: [Rush, Peter](#)
Subject: RE: FOI Search request - FOI/2021/267 [SEC=OFFICIAL]
Date: Wednesday, 27 October 2021 5:42:13 PM
Attachments: [image005.png](#)
[image006.png](#)
[image007.png](#)
[image008.png](#)
[image009.png](#)
[image010.png](#)
[image011.png](#)

Way ahead of me, thanks! 😊

s 22 (duplicate copy)



From: FOI
To: s 47F ; [Rush, Peter](#)
Cc: FOI
Subject: FOI/2021/267 - Search results and next steps [SEC=OFFICIAL]
Date: Friday, 29 October 2021 4:17:18 PM
Attachments: [RE Humanitarian Overseas Service Medal \(Iraq\) Declaration_SECUNCLASSIFIED.msg](#)
[image012.png](#)
[image013.png](#)
[image015.png](#)
[image016.png](#)
[image017.png](#)
[image018.png](#)
[image019.png](#)
[FOI-2021-118 Document 26 \(marked up\).pdf](#)

Hi s 47F and Rush,

Thanks so much – I have reviewed the FOI search results now.

I note however that Mr S's request is worded as follows (my highlight):

*"... On 11 April 2012 your department emailed AusAID (DFAT) providing a written agreement to 'settle the declaration ... and brief the PSPM next week'. However FOI investigations reveal your department evidently withheld the documents from PSPM McLucas.
Please provide a copy of your department's subsequent correspondence to AusAID regarding this matter."*

The 11 April 2012 email that Mr S refers to was sent at 5:42 PM. Two of the emails s 47F found were sent on 11 April 2012 but before that time, hence I would regard them as out of scope.

This leaves an email sent on 22 August 2012 at 12 pm. It is very similar in nature to an email that was included in an FOI request considered in August 2021 for which Rush was the decision maker (FOI/2021/118). I have attached this so you can see the redactions we applied for that one.

Are you happy to proceed on a similar basis with this request? If so, I'll draft a decision letter based on the decision for FOI/2021/118.

Also, just a bit of housekeeping - a decision for this matter is due on 17 November 2021, which means we will probably need to call on the A/g Branch Head of Parliamentary & Government in the next couple of weeks. Could you please let me know who that would be?

Thanks – and hope you have a good weekend.

s 47F

From: s 47F [redacted] ausaid.gov.au >
Sent: Wednesday, 22 August 2012 2:25 PM
To: s 47F [redacted] Alan March
Cc: Rush, Peter s 47F [redacted]
Subject: RE: Humanitarian Overseas Service Medal (Iraq) Declaration [SEC=UNCLASSIFIED]

Will do.

s 47F [redacted]

Director | Humanitarian Emergency Response Section | AusAID
Ph s 22(1)(a)(ii) [redacted] | Fax s 22(1)(a)(ii) [redacted] | Mobile s 22(1)(a)(ii) [redacted]

s 22 (duplicate copy)



From: [Rush, Peter](#)
To: FOI; s 47F
Subject: RE: FOI/2021/267 - Search results and next steps [SEC=OFFICIAL]
Date: Friday, 29 October 2021 5:19:06 PM
Attachments: [image005.png](#)
[image006.png](#)
[image007.png](#)
[image008.png](#)
[image009.png](#)
[image010.png](#)
[image011.png](#)

Thanks s 47F, please go ahead as proposed. I am happy to remain DM. Cheers - Rush

s 22 (duplicate copy)



From: s 47F
To: s 47F
Cc: FOI
Subject: Decision for clearance - FOI/2021/267 - Trav S - Correspondence between PM&C and AusAID [SEC=OFFICIAL]
Date: Wednesday, 3 November 2021 9:25:41 AM
Attachments: [FOI-2021-267 - Decision.docx](#)
[FOI-2021-267 - Document \(marked up\).pdf](#)
[FOI-2021-118 Document 26 \(marked up\).pdf](#)
[FOI-2021-118 - Decision Letter.pdf](#)
[image007.png](#)

OFFICIAL

Hi s 47F

Attached please find for your clearance a decision letter for Trav S (FOI/2021/267). One document was found to be in scope for the request.

A similar document came up in a previous Trav S matter (FOI/2021/118), a marked up version of which I have attached for your info as well. Rush agreed to use similar reasoning for this matter that we used for that previous matter.

Please let me know if you have any concerns. While Rush is currently acting FAS, the decision is not due until 17 November, when he will be back to his substantive position, and he has said he is happy to be decision maker throughout the process.

Thanks

s 47F

| Adviser

Legal Policy Branch

Department of the Prime Minister and Cabinet

Ngunnawal Country, One National Circuit Barton ACT 2600 | PO Box 6500 CANBERRA ACT 2600

e. s 22(1)(a)(ii) [@pmc.gov.au](mailto: @pmc.gov.au) w. pmc.gov.au

The Department acknowledges and pays respect to the past, present and emerging Elders and Traditional Custodians of Country, and the continuation of cultural, spiritual and educational practices of Aboriginal and Torres Strait Islander peoples.

From: s 47F
Subject: RE: Decision for clearance - FOI/2021/267 - Trav S - Correspondence between PM&C and AusAID [SEC=OFFICIAL]
Date: Wednesday, 3 November 2021 6:20:26 PM
Attachments: [image004.png](#)

OFFICIAL

thanks s 47F looks good, no changes. s

s 22 (duplicate copy)



From: [FOI](#)
To: [Rush, Peter](#)
Cc: [s 47F](#); [FOI](#)
Subject: FOI/2021/267 - FOI Decision for approval - Trav S - Correspondence with AusAID [SEC=OFFICIAL:Sensitive, ACCESS=Legal-Privilege]
Date: Thursday, 4 November 2021 10:07:06 AM
Attachments: [FOI-2021-267 - Decision.docx](#)
[FOI-2021-267 - Document \(marked up\).pdf](#)

OFFICIAL: Sensitive
Legal privilege

Dear Rush,

Please find **attached** the draft refusal decision for FOI/2021/267, for your approval.

The decision is due on **Wednesday 17 November 2021**. The decision would not be sent until 15 November at the earliest, when you are back in your substantive position.

In terms of next steps:

- Please review the **attached** draft decision.
- If you agree with the decision letter, please send a 'for noting' email **by Monday 8 November 2021** to John Reid, FAS Government Division (please cc Petra Gartmann, [s 47F](#) and [xxx@xxx.xxx.xx](#)). A draft email for you to use is below.
- Once John notes your proposed decision, the FOI team will send a 'for noting' email to the PMO. You will be copied in.
- Once the PMO has noted, we will arrange to affix your e-signature to the decision and we will then send the decision to the applicant.

Please let us know if there is anything further you require.

Kind regards

[s 47F](#)

.....

Dear John

I would be grateful if you could please note my proposed refusal decision for FOI/2021/267 (**attached**).

The decision is due to the FOI applicant by **Wednesday 17 November 2021**.

Scope of the FOI request, background:

On 18 October 2021, Trav S (the applicant) made a request under the *Freedom of Information Act 1982* in the following terms:

On 19 March 2012, your department emailed AusAID (DFAT) stating 'further to your recent discussion with Peter, here's draft text for your consideration that we propose to brief the new PSPM Senator Jan McLucas with soon'. Titled 'amendment of humanitarian overseas service medal (iraq) declaration 2004 to extend to specified commercial

contractors' the document recommended the PSPM:

'1. Sign the letter to the Governor-General recommending she makes a declaration under HOSM Regulations 2011, extending eligibility for the 'Iraq' clasp to the medal, to specified commercial contractors (Attachment A).

2. Sign the proposed Humanitarian Overseas Service Medal (Iraq) Declaration 2011 (Attachment B).'

On 11 April 2012 your department emailed AusAID (DFAT) providing a written agreement to 'settle the declaration ... and brief the PSPM next week'. However FOI investigations reveal your department evidently withheld the documents from PSPM McLucas.

Please provide a copy of your department's subsequent correspondence to AusAID regarding this matter. Please limit the search to subsequent correspondence occurring between 11 April and 5 December 2012.

Summary of the proposed decision

-

The Department conducted searches, which led to one document being identified as relevant to the request.

The proposed decision is to refuse access to the document under sections 42 (legal professional privilege), 47C (deliberative matter), 47E(d) (operations of an agency) and 47G (business information) of the FOI Act.

Sensitivities:

-

I do not consider there to be any sensitivities with my proposed decision.

Regards

From: [Reid, John](#)
To: [Rush, Peter](#); [Reid, John](#)
Cc: [Gartmann, Petra](#) s 47F ; FOI: s 47F
Subject: RE: FOI/2021/267 - FOI Decision for noting - Trav S - Correspondence with AusAID
 [SEC=OFFICIAL:Sensitive, ACCESS=Legal-Privilege]
Date: Monday, 8 November 2021 10:55:44 AM

OFFICIAL: Sensitive
Legal privilege

Hi Peter

John has noted this FOI.

Regards

s 47F

From: Rush, Peter <x@xx>
Sent: Friday, 5 November 2021 9:53 AM
To: Reid, John <x@xx>
Cc: Gartmann, Petra <x@xx>; s 47F @pmc.gov.au;

 FOI <x@xx>; s 47F @pmc.gov.au>
Subject: FOI/2021/267 - FOI Decision for noting - Trav S - Correspondence with AusAID
 [SEC=OFFICIAL:Sensitive, ACCESS=Legal-Privilege]

OFFICIAL: Sensitive
Legal privilege

Dear John

I would be grateful if you could please note my proposed refusal decision for FOI/2021/267 **(attached)**.

The decision is due to the FOI applicant by **Wednesday 17 November 2021**.

Scope of the FOI request, background:

On 18 October 2021, Trav S (the applicant) made a request under the *Freedom of Information Act 1982* in the following terms:

On 19 March 2012, your department emailed AusAID (DFAT) stating 'further to your recent discussion with Peter, here's draft text for your consideration that we propose to brief the new PSPM Senator Jan McLucas with soon'. Titled 'amendment of humanitarian overseas service medal (iraq) declaration 2004 to extend to specified commercial contractors' the document recommended the PSPM:

'1. Sign the letter to the Governor-General recommending she makes a declaration under HOSM Regulations 2011, extending eligibility for the 'Iraq' clasp to the medal, to specified commercial contractors (Attachment A).

2. Sign the proposed Humanitarian Overseas Service Medal (Iraq) Declaration 2011 (Attachment B).'

On 11 April 2012 your department emailed AusAID (DFAT) providing a written agreement to 'settle the declaration ... and brief the PSPM next week'. However FOI investigations reveal your department evidently withheld the documents from PSPM McLucas.

Please provide a copy of your department's subsequent correspondence to AusAID regarding this matter. Please limit the search to subsequent correspondence occurring between 11 April and 5 December 2012.

Summary of the proposed decision

-

The Department conducted searches, which led to one document being identified as relevant to the request.

The proposed decision is to refuse access to the document under sections 42 (legal professional privilege), 47C (deliberative matter), 47E(d) (operations of an agency) and 47G (business information) of the FOI Act.

Sensitivities:

-

I do not consider there to be any sensitivities with my proposed decision.

Cheers - Rush

From: s 47F
To: FOI
Cc: s 47F; John; Rush, Peter; s 47F; Gartmann, Petra; PMC Media; PMO - Senior Media Team
Subject: RE: For noting by 12 November 2021 - FOI/2021/267 - Trav S - correspondence with AusAID in 2012 regarding HOSM [SEC=PROTECTED, ACCESS=Legal-Privilege]
Date: Tuesday, 16 November 2021 7:58:20 AM
Attachments: image004.png

PROTECTED
Legal privilege

Noted.

From: FOI <xxx@xxx.xxx.xx>
Sent: Monday, 8 November 2021 11:30 AM
To: s 47F pm.gov.au>
Cc: FOI <xxx@xxx.xxx.xx>; s 47F pm.gov.au>; s 47F s 47F @pm.gov.au>; Reid, John <xxxx.xxx@xxx.xxx.xx>; Rush, Peter <xxxxx.xxx@xxx.xxx.xx>; s 47F s 47F @pmc.gov.au>; Gartmann, Petra <xxxxx.xxxxxxx@xxx.xxx.xx>; PMC Media <xxxxx@xxx.xxx.xx>; PMO - Senior Media Team <xxxxxxxxxxxxxxxx@xx.xxx.xx>
Subject: For noting by 12 November 2021 - FOI/2021/267 - Trav S - correspondence with AusAID in 2012 regarding HOSM [SEC=PROTECTED, ACCESS=Legal-Privilege]

PROTECTED
Legal privilege

Dear s 47F

I would be grateful if you could please note the proposed refusal decision for FOI/2021/267 (**attached**) by Peter Rush, Assistant Secretary, Parliamentary & Government Branch.

Please respond by **Friday 12 November 2021**.

Scope of the FOI request, background:

On 18 October 2021, Trav S (the applicant) made a request under the *Freedom of Information Act 1982* in the following terms:

On 19 March 2012, your department emailed AusAID (DFAT) stating 'further to your recent discussion with Peter, here's draft text for your consideration that we propose to brief the new PSPM Senator Jan McLucas with soon'. Titled 'amendment of humanitarian overseas service medal (iraq) declaration 2004 to extend to specified commercial contractors' the document recommended the PSPM:

'1. Sign the letter to the Governor-General recommending she makes a declaration under HOSM Regulations 2011, extending eligibility for the 'Iraq' clasp to the medal, to specified commercial contractors (Attachment A).

2. Sign the proposed Humanitarian Overseas Service Medal (Iraq) Declaration 2011 (Attachment B).'

On 11 April 2012 your department emailed AusAID (DFAT) providing a written agreement to 'settle the declaration ... and brief the PSPM next week'. However FOI investigations reveal your department evidently withheld the documents from PSPM McLucas.

Please provide a copy of your department's subsequent correspondence to AusAID regarding this matter. Please limit the search to subsequent correspondence occurring between 11 April and 5 December 2012.

Summary of the proposed decision

-

The Department conducted searches, which led to one document being identified as relevant to the request.

The proposed decision is to refuse access to the document under sections 42 (legal professional privilege), 47C (deliberative matter), 47E(d) (operations of an agency) and 47G (business information) of the FOI Act.

Sensitivities:

-

The decision maker does not consider there to be any sensitivities with the proposed decision.

Please let us know if you need any further information.

Kind regards,

s 47F [redacted] | Adviser

Legal Policy Branch

Department of the Prime Minister and Cabinet

Ngunnawal Country, One National Circuit Barton ACT 2600 | PO Box 6500 CANBERRA ACT 2600

e. s 47F [redacted] pmc.gov.au w. pmc.gov.au



The Department acknowledges and pays respect to the past, present and emerging Elders and Traditional Custodians of Country, and the continuation of cultural, spiritual and educational practices of Aboriginal and Torres Strait Islander peoples.

From: [Rush, Peter](#)
To: [FOI](#)
Subject: RE: FOI/2021/267 - Decision notified to applicant [SEC=OFFICIAL]
Date: Tuesday, 16 November 2021 5:05:58 PM
Attachments: [image004.png](#)

OFFICIAL

Thanks s 47F

From: FOI <xxx@xxx.xxx.xx>
Sent: Tuesday, 16 November 2021 4:28 PM
To: Rush, Peter <xxxxx.xxxx@xxx.xxx.xx>
Cc: s 47F @pmc.gov.au>; FOI <xxx@xxx.xxx.xx>
Subject: FOI/2021/267 - Decision notified to applicant [SEC=OFFICIAL]

OFFICIAL

Hi Rush,

Confirming the decision for FOI/2021/267 has been sent to the applicant following the PMO's noting the decision this morning. A copy is attached.

Thanks to you and s 47F for your instructions. We have finalised this matter in our system.

Kind regards

s 47F

s 47F | Adviser

Legal Policy Branch

Department of the Prime Minister and Cabinet

Ngunnawal Country, One National Circuit Barton ACT 2600 | PO Box 6500 CANBERRA ACT 2600

e. s 47F pmc.gov.au w. pmc.gov.au

T The Department acknowledges and pays respect to the past, present and emerging Elders and Traditional Custodians of Country, and the continuation of cultural, spiritual and educational practices of Aboriginal and Torres Strait Islander peoples.

s 22(1)(a)(ii)

From: Reid, John
Sent: Wednesday, 17 November 2021 11:49 AM
To: FOI
Cc: Rush, Peter; s 47F
Subject: RE: Seeking confirmation of internal reviewer - FOI request FOI/2021/267IR - Internal Review [SEC=OFFICIAL]

OFFICIAL

Thanks s 47F

Confirming I'm the appropriate IR decision maker. Could you please set up a meeting to discuss in the next week or so.

Cheers,
 JR

From: FOI <FOI@pmc.gov.au>
Sent: Wednesday, 17 November 2021 11:03 AM
To: Reid, John <John.Reid@pmc.gov.au>
Cc: FOI <FOI@pmc.gov.au>; Rush, Peter <Peter.Rush@pmc.gov.au>; s 47F @pmc.gov.au
Subject: Seeking confirmation of internal reviewer - FOI request FOI/2021/267IR - Internal Review [SEC=OFFICIAL]

OFFICIAL

FOI/2021/267IR

Dear John

On 16 November 2021, we received the **attached** request for internal review from Trav S in relation to the decision in FOI/2021/267, made by Mr Peter Rush, Assistant Secretary, Parliamentary and Government Branch on 16 November 2021. A copy of the decision is **attached** for your reference.

Subject to any possible extensions, the internal review decision is due to the applicant by Thursday, 16 December 2021.

Approved arrangements for internal reviews

The Secretary has approved arrangements under the FOI Act such that *'all internal reviews of decisions made under the FOI Act shall be carried out by an officer more senior in rank to the officer who made the original decision'*. In practice, internal reviews are generally undertaken by the relevant SES Band 2 (where the original decision was made by an SES Band 1).

Accordingly, we would be grateful if you could confirm that you are the most appropriate decision-maker for this internal review. Your advice by **COB tomorrow, 18 November 2021** would be greatly appreciated.

Once the internal reviewer has been confirmed, we will schedule a meeting to discuss next steps.

Background information on internal reviews

The Office of the Australian Information Commissioner's FOI Guidelines contain a summary of the principles to be followed in internal review decision making (available here: <https://www.oaic.gov.au/freedom-of-information/foi-guidelines/part-9-internal-agency-review-of-decisions#principles-of-internal-review-decision-making>).

Information on the Department's FOI Business Rules and relevant materials regarding FOI processes is available at the Freedom of Information page on the Department's intranet: https://intranet.ssp.pmc.gov.au/Government/LM/Pages/freedom_of_information_and_privacy.aspx

Please do not hesitate to contact us if you have any questions.

Kind regards

s 47F | Adviser, Legal Policy Branch
 Department of the Prime Minister and Cabinet
 p s 22(1)(a)(ii)
 Ngunnawal Country, One National Circuit Barton ACT 2600 | PO Box 6500 CANBERRA ACT 2600
 e. s 47F @pmc.gov.au w. pmc.gov.au



The Department acknowledges and pays respect to the past, present and emerging Elders and Traditional Custodians of Country, and the continuation of cultural, spiritual and educational practices of Aboriginal and Torres Strait Islander peoples.

s 22(1)(a)(ii)

From: Reid, John
Sent: Thursday, 9 December 2021 10:23 AM
To: FOI
Subject: RE: For approval by 9 December 2021 - FOI/2021/2671R - Trav S - HOSM correspondence to AusAID [SEC=PROTECTED, ACCESS=Legal-Privilege]

PROTECTED
Legal privilege

Thanks s 47F
 I'm happy with this one; I'll send on to s 47F for SF noting now.

Also, can I just say thanks very much for using my previous SF noting emails as a template for this email? That makes life really easy for me.

Cheers,
 JR

From: FOI <FOI@pmc.gov.au>
Sent: Wednesday, 8 December 2021 1:35 PM
To: Reid, John <John.Reid@pmc.gov.au>
Cc: FOI <FOI@pmc.gov.au>
Subject: For approval by 9 December 2021 - FOI/2021/2671R - Trav S - HOSM correspondence to AusAID [SEC=PROTECTED, ACCESS=Legal-Privilege]

PROTECTED
Legal privilege

Dear JR

Please find attached the draft internal review decision for FOI/2021/2671R.

Also attached for your reference are the following relevant papers from the primary decision:

- primary decision; and
- 'marked-up' copy of documents.

The internal review decision is due to the applicant by Thursday, 16 December 2021.

Next steps:

- Please review the draft IR decision.
- If you do not require any changes to the decision, please send a 'for noting' email to Stephanie Foster, Dep Sec Governance Group (please cc Petra Gartmann, s 47F and foi@pmc.gov.au). A draft email to s 47F for you to use is below.
- Once Stephanie notes your proposed decision, the FOI team will send a "for noting" email to the PMO (you will be cc'ed in).
- Upon PMO noting the IR decision, we will affix your e-signature to the decision and send it to the applicant.

Please let us know if there is anything else you need.

Kind regards
 s 47F

.....

Dear s 47F

I've got an FOI decision (Internal Review) for Stephanie to note. This is an internal review relating to the Humanitarian Overseas Service Medal wherein I am proposing to affirm the primary decision of Peter Rush. I'd be grateful if you could bring this to Stephanie's attention and seek her 'noting' by COB 10 December 2021.

The decision is due to the FOI applicant by Thursday 16 December 2021.

Scope of the FOI request, background

On 16 November 2021, Trav S (the applicant) sought internal review of the Department's primary decision (made on 16 November 2021 by Peter Rush, Assistant Secretary, Parliamentary and Government Branch) in relation to the applicant's request in the following terms:

On 19 March 2012, your department emailed AusAID (DFAT) stating 'further to your recent discussion with Peter, here's draft text for your consideration that we propose to brief the new PSPM Senator Jan McLucas with soon'. Titled 'amendment of humanitarian overseas service medal (iraq) declaration 2004 to extend to specified commercial contractors' the document recommended the PSPM:

'1. Sign the letter to the Governor-General recommending she makes a declaration under HOSM Regulations 2011, extending eligibility for the 'Iraq' clasp to the medal, to specified commercial contractors (Attachment A).

2. Sign the proposed Humanitarian Overseas Service Medal (Iraq) Declaration 2011 (Attachment B).'

On 11 April 2012 your department emailed AusAID (DFAT) providing a written agreement to 'settle the declaration ... and brief the PSPM next week'. However FOI investigations reveal your department evidently withheld the documents from PSPM McLucas.

Please provide a copy of your department's subsequent correspondence to AusAID regarding this matter. Please limit the search to subsequent correspondence occurring between 11 April and 5 December 2012.

The primary decision

The primary decision identified one document relevant to the request. Access was refused on the basis of the document being:

- exempt under section 42 (legal professional privilege) of the FOI Act; and
- conditionally exempt under sections 47C, 47E(d) and 47G of the FOI Act and disclosure would, on balance, be contrary to the public interest.

The internal review request

In his request for internal review, the applicant submitted that:

- legal professional privilege was waived over the parts of the document found to be exempt under section 42; and
- for the parts of the document found to be conditionally exempt, the public interest in releasing the document outweighs the public interest in not releasing the document.

The proposed internal review decision

The proposed internal review decision is to affirm the primary decision.

Sensitivities

I do not believe there to be any sensitivity with the decision.

Regards

From: [Reid, John](#)
To: s 47F
Cc: [FOI](#); s 47F
Subject: RE: For SF noting by 10 December 2021 - FOI/2021/267IR and s Trav S [SEC=PROTECTED, ACCESS=Legal-Privilege] 22(1)
Date: Friday, 10 December 2021 2:13:21 PM
Attachments: [image002.png](#)

PROTECTED
Legal privilege

Tops! Thanks!

From: s 47F @pmc.gov.au
Sent: Friday, 10 December 2021 1:44 PM
To: Reid, John <John.Reid@pmc.gov.au>
Cc: FOI <FOI@pmc.gov.au>; s 47F @pmc.gov.au
Subject: RE: For SF noting by 10 December 2021 - FOI/2021/267IR and s 22(1) (a)(iii) Trav S [SEC=PROTECTED, ACCESS=Legal-Privilege]

PROTECTED
Legal privilege

Hi JR
 Stephanie has noted the decisions.
 Cheers
 s 47F

s 47F | Executive Officer to Stephanie Foster PSM
 p. s 22(1)(a)(ii) | m. s 22(1)(a)(ii)

From: Reid, John <John.Reid@pmc.gov.au>
Sent: Thursday, 9 December 2021 11:02 AM
To: s 47F @pmc.gov.au
Cc: FOI <FOI@pmc.gov.au>; s 47F @pmc.gov.au
Subject: For SF noting by 10 December 2021 - FOI/2021/267IR and s 22(1) (a)(iii) Trav S [SEC=PROTECTED, ACCESS=Legal-Privilege]

PROTECTED
Legal privilege

Dear s 47F

I've got two FOI decisions (Internal Review) for Stephanie to note. These are both internal reviews relating to the Humanitarian Overseas Service Medal wherein I am proposing to **affirm the primary decisions** of Peter Rush and Petra Gartmann. I'd be grateful if you could bring these to Stephanie's attention and seek her noting by **COB 10 December 2021**.

267IR

On 16 November 2021, Trav S (the applicant) sought internal review of the Department's primary decision (made on 16 November 2021 by Peter Rush) in relation to the applicant's request in the following terms:

On 19 March 2012, your department emailed AusAID (DFAT) stating 'further to your recent discussion with Peter, here's draft text for your consideration that we propose to brief the new PSPM Senator Jan McLucas with soon'. Titled 'amendment of humanitarian overseas service medal (iraq) declaration 2004 to extend to specified commercial contractors' the document recommended the PSPM:

'1. Sign the letter to the Governor-General recommending she makes a declaration under HOSM Regulations 2011, extending eligibility for the 'Iraq' clasp to the medal, to specified commercial contractors (Attachment A).

2. Sign the proposed Humanitarian Overseas Service Medal (Iraq) Declaration 2011 (Attachment B).'

On 11 April 2012 your department emailed AusAID (DFAT) providing a written agreement to 'settle the declaration ... and brief the PSPM next week'. However FOI investigations reveal your department evidently withheld the documents from PSPM McLucas.

Please provide a copy of your department's subsequent correspondence to AusAID regarding this matter. Please limit the search to subsequent correspondence occurring between 11 April and 5 December 2012.

The primary decision identified one document relevant to the request. Access was refused on the basis of the document being:

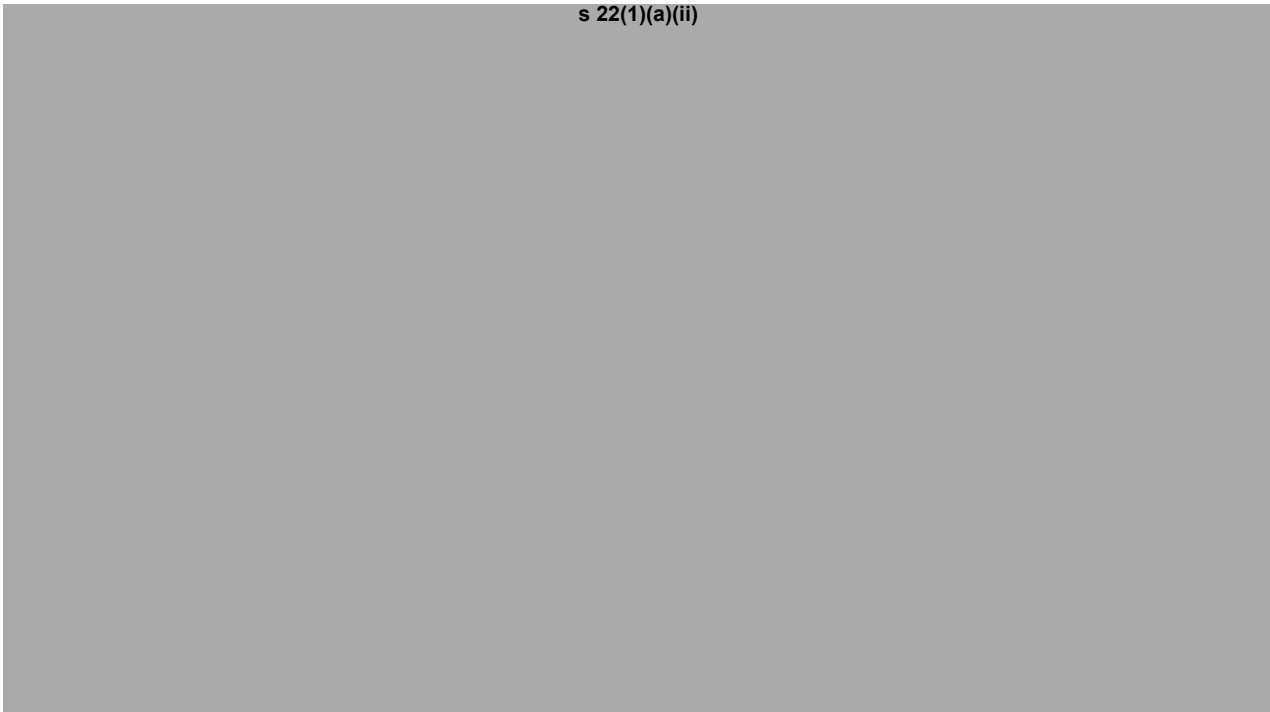
- exempt under section 42 (legal professional privilege) of the FOI Act; and
- conditionally exempt under sections 47C, 47E(d) and 47G of the FOI Act and disclosure would, on balance, be contrary to the public interest.

In his request for internal review, the applicant submitted that:

- legal professional privilege was waived over the parts of the document found to be exempt under section 42; and
- for the parts of the document found to be conditionally exempt, the public interest in releasing the document outweighs the public interest in not releasing the document.

The proposed internal review decision is to affirm the primary decision.

s 22(1)(a)(ii)



The proposed internal review decision is to affirm the primary decision.

Cheers,
JR

John Reid PSM | First Assistant Secretary

Government Division

Department of the Prime Minister and Cabinet

s 22(1)(a)(ii) | e. xxx.xxx@xxx.xxx.xx | w. www.pmc.gov.au

Ngunnawal Country, One National Circuit Barton ACT 2600 | PO Box 6500 CANBERRA ACT 2600

Executive Assistant – s 47F

p. s 22(1)(a)(ii)

e s 47F



The Department acknowledges and pays respect to the past, present and emerging Elders and Traditional Custodians of Country, and the continuation of cultural, spiritual and educational practices of Aboriginal and Torres Strait Islander peoples.

s 22(1)(a)(ii)

From: s 47F
Sent: Friday, 10 December 2021 5:39 PM
To: FOI
Cc: s 47F Reid, John; s 47F; Gartmann, Petra; PMC Media; PMO - Senior Media Team
Subject: RE: For noting by 15 Dec 2021 - FOI/2021/267IR - Trav S - Internal Review decision - Affirmation [SEC=OFFICIAL:Sensitive]
Categories: Copy

OFFICIAL: Sensitive

Noted.

From: FOI <FOI@pmc.gov.au>
Sent: Friday, 10 December 2021 3:36 PM
To: s 47F @pm.gov.au
Cc: s 47F @pm.gov.au; s 47F @pm.gov.au; Reid, John <John.Reid@pmc.gov.au>; s 47F @pmc.gov.au; Gartmann, Petra <Petra.Gartmann@pmc.gov.au>; PMC Media <Media@pmc.gov.au>; PMO - Senior Media Team <SeniorMediaTeam@pm.gov.au>; FOI <FOI@pmc.gov.au>
Subject: For noting by 15 Dec 2021 - FOI/2021/267IR - Trav S - Internal Review decision - Affirmation [SEC=OFFICIAL:Sensitive]

OFFICIAL: Sensitive

Dear s 47F

We would be grateful if you could please note the proposed internal review affirmation decision for FOI/2021/267IR (**attached**) by John Reid, First Assistant Secretary, Government Division.

Please respond by **Wednesday 15 December 2021**.

Scope of the FOI request, background

On 16 November 2021, Trav S (the applicant) sought internal review of the Department's primary decision (made on 16 November 2021 by Peter Rush) in relation to the applicant's request in the following terms:

On 19 March 2012, your department emailed AusAID (DFAT) stating 'further to your recent discussion with Peter, here's draft text for your consideration that we propose to brief the new PSPM Senator Jan McLucas with soon'. Titled 'amendment of humanitarian overseas service medal (iraq) declaration 2004 to extend to specified commercial contractors' the document recommended the PSPM:

'1. Sign the letter to the Governor-General recommending she makes a declaration under HOSM Regulations 2011, extending eligibility for the 'Iraq' clasp to the medal, to specified commercial contractors (Attachment A).

2. Sign the proposed Humanitarian Overseas Service Medal (Iraq) Declaration 2011 (Attachment B).'

On 11 April 2012 your department emailed AusAID (DFAT) providing a written agreement to 'settle the declaration ... and brief the PSPM next week'. However FOI investigations reveal your department evidently withheld the documents from PSPM McLucas.

Please provide a copy of your department's subsequent correspondence to AusAID regarding this matter. Please limit the search to subsequent correspondence occurring between 11 April and 5 December 2012.

The primary decision identified one document relevant to the request. Access was refused on the basis of the document being:

- exempt under section 42 (legal professional privilege) of the FOI Act; and
- conditionally exempt under sections 47C, 47E(d) and 47G of the FOI Act and disclosure would, on balance, be contrary to the public interest.

The proposed internal review decision is to affirm the primary decision. The decision maker does not believe there to be sensitivities with the decision.

Please let us know if you need further information.

Kind regards

s 47F | Adviser
 Legal Policy Branch
 Department of the Prime Minister and Cabinet
 Ngunnawal Country, One National Circuit Barton ACT 2600 | PO Box 6500 CANBERRA ACT 2600
 e. s 47F @pmc.gov.au w. pmc.gov.au

The Department acknowledges and pays respect to the past, present and emerging Elders and Traditional Custodians of Country, and the continuation of cultural, spiritual and educational practices of Aboriginal and Torres Strait Islander peoples.

From: [FOI](#)
To: [Reid, John](#)
Cc: [FOI](#)
Subject: FOI Internal Review Decisions sent to applicant (Trav S) [SEC=OFFICIAL]
Date: Monday, 13 December 2021 11:59:41 AM
Attachments: [FOI20212671R - Decision_SECOFFICIAL.msg](#)
[s 22\(1\)\(a\)\(ii\)](#)
[image004.png](#)

OFFICIAL

Dear JR,

Following the PMO's noting of your internal review decisions on Friday, we have finalised the two internal reviews for Trav S ([s 22\(1\)\(a\)\(ii\)](#)) and FOI/2021/2671R).

Copies of the decisions are attached for your reference.

Kind regards

[s 47F](#)

[s 47F](#) | Adviser

Legal Policy Branch

Department of the Prime Minister and Cabinet

Ngunnawal Country, One National Circuit Barton ACT 2600 | PO Box 6500 CANBERRA ACT 2600

e. [s 47F](#) [pmc.gov.au](#) w. [pmc.gov.au](#)

The Department acknowledges and pays respect to the past, present and emerging Elders and Traditional Custodians of Country, and the continuation of cultural, spiritual and educational practices of Aboriginal and Torres Strait Islander peoples.

From: [FOI](#)
To: [FOI](#)
Subject: RE: For response by 6 Sep - FOI consultation - PM&C refs: FOI/2021/2671C and **s 22(1)(a)(ii)**
[SEC=OFFICIAL:Sensitive, ACCESS=Legal-Privilege]
Date: Wednesday, 6 September 2023 5:03:19 PM
Attachments: [image004.png](#)
[image005.png](#)

**OFFICIAL: Sensitive
Legal privilege**

Dear **s 47F**

Thank you for consulting the Department of Foreign Affairs and Trade (DFAT) in regard to FOI/2021/2671C and **s 22(1)(a)(ii)**

DFAT has reviewed the material, and advises that we have not identified any sensitivities associated with the release of these documents. We note that the treatment of this material in the context of the Oaic review is ultimately a matter for PM&C's decision-maker.

If you have any further questions please do not hesitate to contact us.

Kind regards

s 47F

Assistant Director | Freedom of Information Section
Public Interest Law Branch | Regulatory and Legal Policy Division

Department of Foreign Affairs and Trade
s 22(1)(a)(ii) |

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© Kim Hill, *Among Women* (2011)

We acknowledge the Traditional Custodians of Country throughout Australia, and their continuing connection to land, waters and community. We pay our respects to all First Nations peoples, their cultures and to their Elders, past, present and emerging.

This email and any attachments may contain confidential information or legal advice over which legal professional privilege can be claimed. Such privilege is not waived and you should ensure that, in your handling of the advice, you avoid waiving privilege. Please consult the author of the advice if unsure about appropriate handling.

From: FOI <xxx@xxx.xxx.xx>
Sent: Wednesday, 30 August 2023 5:08 PM
To: FOI <xxx@xxxx.xxx.xx>

Cc: FOI <xxx@xxx.xxx.xx>

Subject: For response by 6 Sep - FOI consultation - PM&C ref: FOI/2021/2671C
[SEC=OFFICIAL:Sensitive, ACCESS=Legal-Privilege]

OFFICIAL: Sensitive
Legal privilege

FOI/2021/2671C

Dear FOI Colleagues

The Department of the Prime Minister and Cabinet (the Department) is currently preparing its submissions regarding an Information Commissioner (IC) review application, and would like to consult your agency on relevant material.

Background

On 18 October 2021, an applicant made an FOI request to the Department in the following terms:

On 19 March 2012, your department emailed AusAID (DFAT) stating 'further to your recent discussion with Peter, here's draft text for your consideration that we propose to brief the new PSPM Senator Jan McLucas with soon'. Titled 'amendment of humanitarian overseas service medal (iraq) declaration 2004 to extend to specified commercial contractors' the document recommended the PSPM:

'1. Sign the letter to the Governor-General recommending she makes a declaration under HOSM Regulations 2011, extending eligibility for the 'Iraq' clasp to the medal, to specified commercial contractors (Attachment A).

2. Sign the proposed Humanitarian Overseas Service Medal (Iraq) Declaration 2011 (Attachment B).'

On 11 April 2012 your department emailed AusAID (DFAT) providing a written agreement to 'settle the declaration ... and brief the PSPM next week'. However FOI investigations reveal your department evidently withheld the documents from PSPM McLucas.

Please provide a copy of your department's subsequent correspondence to AusAID regarding this matter. Please limit the search to subsequent correspondence occurring between 11 April and 5 December 2012.

One document was identified as falling within scope of the request. On 16 November 2021, the Department issued a decision refusing access to the document on the basis that it contains material that is exempt under s 42 (legal professional privilege), s 47C (deliberative matter), s 47E(d) (operations of an agency) and s 47G (business information) of the FOI Act.

A subsequent internal review affirmed the original decision. On 11 August 2023, the Department was notified that the applicant sought IC review. The Department's preliminary view is that the sensitivity within the document has not diminished even with the passage of time, and accordingly, we are preparing submissions to support the original exemptions claimed.

For action

We have **attached** the document which may be of interest to your agency. We would appreciate any comments you may have as to the potential harm that would flow from release. Our line area advised that your Humanitarian Response Planning Section, Humanitarian and Preparedness Branch (point of contact is **s 47F** [@dfat.gov.au](mailto:_____@dfat.gov.au)), may be able to comment regarding the material.

It will assist if you were to express your views in terms of the exemptions provided for in the FOI Act, and if you were to provide reasons which are sufficiently detailed so that the Department can ensure any concerns and sensitivities are taken into account in its (confidential) submissions to the IC. The document is marked-up in red boxes to show the exemptions claimed and the material considered irrelevant to the request.

We would appreciate your response by **COB Wednesday, 6 September 2023** to enable us to respond to the Information Commissioner within timeframes.

Please do not hesitate to contact me on **s 22(1)(a)(ii)** if you have any questions or wish to discuss.

Yours sincerely

s 47F

Adviser | FOI Section

Department of the Prime Minister and Cabinet

p. **s 22(1)(a)(ii)**

Ngunawal Country, One National Circuit Barton ACT 2600 | PO Box 6500 CANBERRA ACT 2600

e. xxx@xxx.xxx.xx w. pmc.gov.au



The Department acknowledges and pays respect to the past, present and emerging Elders and Traditional Custodians of Country, and the continuation of cultural, spiritual and educational practices of Aboriginal and Torres Strait Islander peoples.

IMPORTANT: This message, and any attachments to it, contains information that is confidential and may also be the subject of legal professional or other privilege. If you are not the intended recipient of this message, you must not review, copy, disseminate or disclose its contents to any other party or take action in reliance of any material contained within it. If you have received this message in error, please notify the sender immediately by return email informing them of the mistake and delete all copies of the message from your computer system.

From: s 47F
To: s 47F
Cc: s 47F; [Belgrove, David](#); [FOI](#); s 47F
Subject: FW: For response by 30 Aug - Consultation - IC review - FOI/2021/2671C [SEC=OFFICIAL:Sensitive, ACCESS=Legal-Privilege]
Date: Wednesday, 6 September 2023 5:25:39 PM
Attachments: [image005.png](#)
[RE For response by 6 Sep - FOI consultation - PMC refs FOI20212671C and s 22\(1\)\(a\)\(ii\)](#)
[SECOFFICIAL Sensitive ACCESS Legal-Privilege.msg](#)
[s 22\(1\)\(a\)\(ii\)](#)
[FOI-2021-2671C - DFAI consult.pdf](#)

OFFICIAL: Sensitive
Legal privilege

Dear s

For information, please find **attached** the response from DFAT regarding our consultation. In short, they have not identified any sensitivities. As discussed in our previous meeting, since PM&C is still of the view that the documents are sensitive, I will proceed in drafting the submissions for your review/input. I am aiming to provide these to you next week.

If you have any questions or comments, please let us know.

Kind regards

s 47F | Adviser
 FOI and Privacy Section | Legal Policy Branch
 p. s 22(1)(a)(ii)

From: FOI
Sent: Wednesday, 30 August 2023 5:12 PM
To: s 47F @pmc.gov.au>
Cc: s 47F @pmc.gov.au>; Belgrove, David <xxxxx.xxxxxxxx@xxx.xxx.xx>; FOI <xxx@xxx.xxx.xx>; s 47F @pmc.gov.au>
Subject: RE: For response by 30 Aug - Consultation - IC review - FOI/2021/2671C [SEC=OFFICIAL:Sensitive, ACCESS=Legal-Privilege]

OFFICIAL: Sensitive
Legal privilege

Thank you, s 47F

I have sent the consultation emails to DFAT – see **attached**. You might notice that I have removed the PM&C internal emails in the document bundles we sent.

Let us know if you would like us to undertake any further consultation. I will be on leave for the rest of the week and can action this matter further next week.

Kind regards

s 47F | Adviser
 FOI and Privacy Section | Legal Policy Branch
 p. s 22(1)(a)(ii)

From: s 47F [redacted]@pmc.gov.au>
Sent: Wednesday, 30 August 2023 2:22 PM
To: FOI <FOI@pmc.gov.au>
Cc: s 47F [redacted] s 47F [redacted]@pmc.gov.au>; Belgrove, David <David.Belgrove@pmc.gov.au>
Subject: RE: For response by 30 Aug - Consultation - IC review - FOI/2021/267IC [SEC=OFFICIAL]

OFFICIAL

Hi s 47F [redacted]

I have spoken to DFAT re our position on the two FOI decisions under consideration.

If you could include in your email to the DFAT FOI team that they could consult with the Humanitarian Response Planning Section, Humanitarian and Preparedness Branch on the documents that would be great.

Best POC for them is s 47F [redacted]

Kind regards

s 47F [redacted]

From: FOI <FOI@pmc.gov.au>
Sent: Friday, 25 August 2023 4:50 PM
To: s 47F [redacted] <s 47F [redacted]@pmc.gov.au>; s 47F [redacted] <s 47F [redacted]@pmc.gov.au>
Cc: FOI <FOI@pmc.gov.au>; s 47F [redacted]@pmc.gov.au>
Subject: For response by 30 Aug - Consultation ²²¹ - IC review - FOI/2021/267IC [SEC=OFFICIAL]

OFFICIAL

Dear s 47F [redacted] and s 47F [redacted]

This is another IC review matter where we are considering whether a revised s55G decision may be appropriate. The Information Commissioner (IC) has received a review application from s 47F [redacted] (the applicant) regarding the Department's FOI decision on s 47F [redacted] request for the following:

On 19 March 2012, your department emailed AusAID (DFAT) stating 'further to your recent discussion with Peter, here's draft text for your consideration that we propose to brief the new PSPM Senator Jan McLucas with soon'. Titled 'amendment of humanitarian overseas service medal (iraq) declaration 2004 to extend to specified commercial contractors' the document recommended the PSPM:

'1. Sign the letter to the Governor-General recommending she makes a declaration under HOSM Regulations 2011, extending eligibility for the 'Iraq' clasp to the medal, to specified commercial contractors (Attachment A).

2. Sign the proposed Humanitarian Overseas Service Medal (Iraq) Declaration 2011 (Attachment B).'

On 11 April 2012 your department emailed AusAID (DFAT) providing a written agreement to 'settle the declaration ... and brief the PSPM next week'. However FOI investigations reveal your department evidently withheld the documents from PSPM McLucas.

Please provide a copy of your department's subsequent correspondence to AusAID regarding this matter. Please limit the search to subsequent correspondence occurring between 11 April and 5 December 2012.

One document was found to be in scope of the request. The marked-up version is **attached** for your reference.

For action

-

Please review the **attached** document and provide your comments regarding potential release. In particular, we would appreciate if you could please:

- identify any material that may now be appropriate for release given the passage of time, or alternatively,
- provide views as to whether the Department should continue to press the exemptions claimed, and outline the continuing harm that may flow from release.

We would appreciate your response by **Wednesday, 30 August 2023** to enable us to respond to the Information Commissioner. Subject to your views, we are also proposing to consult DFAT and OPC on potential release.

-

Background

On 16 November 2021, the Department issued a decision (**attached**) refusing access to the document on the basis that it contained material that is exempt under s 42 (legal professional privilege), s 47C (deliberative matter), s 47E(d) (operations of an agency) and s 47G (business information) of the FOI Act.

On 13 December 2021, the primary decision was affirmed in internal review (**attached**). On 11 August 2023, the Office of the Australian Information Commissioner notified the Department that the applicant sought IC review (**attached**).

Due to the passage of time and potentially reduced sensitivities in the documents, the Department is now considering whether it may be appropriate to release some material to the applicant through [a revised FOI decision under s55G](#) of the FOI Act. If this is not possible, the Department will provide submissions to the OAIC regarding the exemptions claimed, along with the marked-up version of the documents in question.

Please don't hesitate to contact me if you have any questions or wish to discuss.

Kind regards

s 47F | Adviser, FOI and Privacy Section

Department of the Prime Minister and Cabinet

p s 22(1)(a)(ii)

Ngunawal Country, One National Circuit Barton ACT 2600 | PO Box 6500 CANBERRA ACT 2600

e. s 47F [REDACTED] [@pmc.gov.au](mailto:[REDACTED]@pmc.gov.au) w. pmc.gov.au



The Department acknowledges and pays respect to the past, present and emerging Elders and Traditional Custodians of Country, and the continuation of cultural, spiritual and educational practices of Aboriginal and Torres Strait Islander peoples.

From: [FOI](#)
To: [Belgrove, David](#)
Cc: [FOI](#); [s 47F](#)
Subject: FW: FOI consultation (FOI/2021/1121C and FOI/2021/2671C) [SEC=OFFICIAL]
Date: Tuesday, 3 October 2023 3:57:41 PM
Attachments: [image004.png](#)

OFFICIAL

Dear David

We consulted with NSD last week on the 2 IC review matters. Please see their comments below.

I will arrange a catch-up for later this week so we can discuss next steps.

Kind regards

[s 47F](#)

From: [s 47F](#) <s 47F@pmc.gov.au>
Sent: Friday, 29 September 2023 4:08 PM
To: [s 47F](#) <s 47F@pmc.gov.au>
Cc: [s 47F](#) <s 47F@pmc.gov.au>; [FOI](#) <xxx@xxx.xxx.xx>
Subject: RE: FOI consultation (FOI/2021/1121C and FOI/2021/2671C) [SEC=OFFICIAL]

OFFICIAL

Hi [s 47F](#)

Thanks for the meeting today and for your patience in explaining your request for action.

I have reviewed the material that was provided during our meeting. In my opinion, our national security interests would not be damaged by the release of this information.

Should you require further information, please don't hesitate to call or ask me to meet you for more discussions.

Thanks and regards, [s 47F](#)

[s 47F](#)

Acting Assistant Secretary
 Senior Adviser, DSR Implementation
 Defence and Intelligence Branch | National Security Division
 Department of the Prime Minister and Cabinet

p. [s 22\(1\)\(a\)\(ii\)](#)

m. [s 22\(1\)\(a\)\(ii\)](#)

Ngunawal Country, One National Circuit Barton ACT 2600 | PO Box 6500 CANBERRA ACT
 2600

e. [s 47F](#) w. pmc.gov.au



The Department acknowledges and pays respect to the past, present and emerging Elders and Traditional Custodians of Country, and the continuation of cultural, spiritual and educational practices of Aboriginal and Torres Strait Islander peoples.

From: s 47F <[redacted]@pmc.gov.au>
Sent: Friday, 29 September 2023 1:43 PM
To: s 47F <[redacted]@pmc.gov.au>
Cc: [redacted] s 47F FOI <[redacted]>
<[redacted]>
Subject: FOI consultation (FOI/2021/112IC and FOI/2021/267IC) [SEC=OFFICIAL]

OFFICIAL

Dear s
47

Thank you for your time today.

As discussed, please see below summary of the matter:

- The applicant, [redacted] s 47F
- The 2 FOI requests on hand and the Department's decisions were made in 2021.
 - The documents involved (**attached**) are correspondence between PM&C and AusAid in 2012 regarding the Humanitarian Overseas Service Medal (HOSM), specifically discussing the potential extension of eligibility for the HOSM (Iraq clasp) to specific commercial contractors.
 - The Department refused access to these documents on the basis that they contain material that is exempt under s 42 (legal professional privilege), s 47C (deliberative matter), s 47E(d) (operations of an agency) and s 47G (business information) of the FOI Act. Access refusal was also affirmed in internal review.
- Last month, the Office of the Australian Information Commissioner (OAIC) informed the Department that the applicant has applied for external review of the access refusal decisions. Given that the matter is now in external review stage, the Department can either defend all of the exemption claims, or release some material where sensitivity has reduced due to the passage of time.
- DFAT was consulted on the documents recently and did not identify any sensitivities.

For action

-

We would be grateful if you could please advise, from a national security perspective, if you identify any potential harm that could flow from the release of the documents. Grateful for your advice by **COB Tuesday, 3 October 2023**.

If you would like to discuss further, please let me know and I will organise another catch-up.

Many thanks,

s 47F [redacted] | Adviser
FOI and Privacy Section | Legal Policy Branch
p. s 22(1)(a)(ii) [redacted]

s 22(1)(a)(ii)

From: s 47F
Sent: Thursday, 5 October 2023 4:10 PM
To: Belgrove, David
Cc: FOI
Subject: For discussion [SEC=OFFICIAL]
Attachments: Letter to applicant dated 28 July 2021.pdf; Material proposed for release.pdf

OFFICIAL

Hi David

Please see attached, for discussion at 4:15 today.

Kind regards

s 47F | Adviser, FOI and Privacy Section
 Department of the Prime Minister and Cabinet
 p. s 22(1)(a)(ii)

Ngunawal Country, One National Circuit Barton ACT 2600 | PO Box 6500 CANBERRA ACT 2600

e. s 47F @pmc.gov.au w. pmc.gov.au



The Department acknowledges and pays respect to the past, present and emerging Elders and Traditional Custodians of Country, and the continuation of cultural, spiritual and educational practices of Aboriginal and Torres Strait Islander peoples.

s 22(1)(a)(ii)

From: s 47F
Sent: Monday, 16 October 2023 12:28 PM
To: FOI; s 47F
Subject: RE: For review/comments by COB 18 Oct - Draft revised decisions - s 22(1)(a)(ii) and FOI/2021/267IC [SEC=OFFICIAL]
Attachments: FOI-2021-267IC - Revised (s55G) Decision.docx

OFFICIAL

Thanks s 47F – the decision letters look good to me. I just picked up a small typo in 267. Amended version is attached.

s 22(1)(a)(ii)

Subject to any further comments from s 47F happy for this one to be progressed.

Thanks

s 47F

From: FOI <FOI@pmc.gov.au>
Sent: Friday, 13 October 2023 2:41 PM
To: s 47F
Cc: FOI <FOI@pmc.gov.au>; s 47F
Subject: For review/comments by COB 18 Oct - Draft revised decisions - s 22(1)(a)(ii) and FOI/2021/267IC [SEC=OFFICIAL]

OFFICIAL

Dear s 47F

For your review/input, please find **attached** the draft revised decisions and associated documents for the two Trav S (Right To Know) matters that are currently under IC review.

For action:

- Please provide any further suggestions and comments on the draft decisions and documents for release by **COB Wednesday, 18 October 2023** so that we can progress these decision to David for approval by mid next week.

Attachments:

s 22(1)(a)(ii)

- FOI/2021/267IC – Revised Decision
 - FOI/2021/267IC – Documents marked-up
 - FOI/2021/267IC – Documents for release

As always, happy to discuss if it would be helpful.

Many thanks,

s 47F | Adviser, FOI and Privacy Section
 Department of the Prime Minister and Cabinet
 p. s 22(1)(a)(ii)
 Ngunawal Country, One National Circuit Barton ACT 2600 | PO Box 6500 CANBERRA ACT 2600
 s 47F w. pmc.gov.au

The Department acknowledges and pays respect to the past, present and emerging Elders and Traditional Custodians of Country, and the continuation of cultural, spiritual and educational practices of Aboriginal and Torres Strait Islander peoples.



Australian Government
Department of the Prime Minister and Cabinet



Freedom of Information (FOI) request

Notice of Revised Decision under s 55G of the FOI Act

Reference: FOI/2021/267IC

To: Mr Trav S

foi+request-7981-fe1bc995@righttoknow.org.au

Cc: Office of the Australian Information Commissioner

foidr@oaic.gov.au

Dear Mr Trav S

I refer to your request under the *Freedom of Information Act 1982* (the FOI Act) to the Department of the Prime Minister and Cabinet (the Department) on 18 October 2021, for the following:

On 19 March 2012, your department emailed AusAID (DFAT) stating 'further to your recent discussion with Peter, here's draft text for your consideration that we propose to brief the new PSPM Senator Jan McLucas with soon'. Titled 'amendment of humanitarian overseas service medal (iraq) declaration 2004 to extend to specified commercial contractors' the document recommended the PSPM:

- '1. Sign the letter to the Governor-General recommending she makes a declaration under HOSM Regulations 2011, extending eligibility for the 'Iraq' clasp to the medal, to specified commercial contractors (Attachment A).*
- 2. Sign the proposed Humanitarian Overseas Service Medal (Iraq) Declaration 2011 (Attachment B).'*

On 11 April 2012 your department emailed AusAID (DFAT) providing a written agreement to 'settle the declaration ... and brief the PSPM next week'. However FOI investigations reveal your department evidently withheld the documents from PSPM McLucas.

Please provide a copy of your department's subsequent correspondence to AusAID regarding this matter. Please limit the search to subsequent correspondence occurring between 11 April and 5 December 2012.

On 16 November 2021, the Department notified you of its decision regarding one document identified within scope of your request (the requested document). The primary decision-maker refused access on the grounds that the requested document contains material that was exempt under section 42 (legal professional privilege), section 47C (deliberative material), section 47E(d) (operations of an agency) and section 47G (business information) of the FOI Act, and that relevant public interest factors weighed against disclosure of the documents. You sought internal review of this decision.

On 13 December 2021, the Department notified you of its internal review decision which affirmed the primary decision. On 11 August 2023, the Office of the Australian Information Commissioner (OAIC) notified the Department that you have applied for an Information Commissioner (IC) review of the Department's internal review decision.

The purpose of this letter is to provide you, under section 55G of the FOI Act, with a revised decision on your request for access.

Section 55G of the FOI Act

Section 55G(1)(a) of the FOI Act provides that after an application is made to the IC for review, an agency or Minister may (at any time during IC review) revoke or vary an access refusal decision to favour the applicant by giving access to a document in accordance with the request.

Section 55G(2) of the FOI Act provides that an agency must notify the IC of the new decision (section 55G(2)(a)) and the revised decision will be the decision under review (section 55G(2)(b)).

Authorised decision-maker

I am authorised to make this revised decision in accordance with arrangements approved by the Department's Secretary under section 23 of the FOI Act.

I have reviewed the requested document and consider I am now in a position to grant part access to the document in accordance with your request. Accordingly, I have decided to make this revised decision under section 55G of the FOI Act.

Material taken into account

In reaching my decision, I referred to the following:

- your FOI request;
- the primary decision;
- the requested document;
- the internal review decision;
- your request for IC review;
- consultation comments from another agency;
- the FOI Act; and
- the Guidelines issued by the Information Commissioner under section 93A of the FOI Act (the FOI Guidelines).¹

¹ FOI Guidelines.

Documents in scope of request

I am satisfied that the requested document meets the terms of your request.

Revised decision and reasons

I have considered all the information available to me, including the fresh consultation comments received from another agency. Due to the passage of time and the decreased sensitivity of the material contained within the document, I have decided to grant access in part to the document, while maintaining the exemptions over parts that contain legally privileged material (section 42) and business information of a third party (section 47G). Irrelevant material has been deleted under section 22(1)(a)(ii) of the FOI Act.

My findings of fact and reasons for deciding that certain information is exempt or irrelevant is set out below.

1. Legal Professional Privilege (section 42 of the FOI Act)

Section 42(1) of the FOI Act provides that 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.

The FOI Guidelines provide that to determine the application of the exemption, the decision maker must have regard to the common law concept of legal professional privilege.² The FOI Guidelines also provide that at common law, determining whether a communication is privileged requires a consideration of:

- 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 given is independent; and
- whether the advice given is confidential.³

I am satisfied that parts of the requested document meets the common law requirements for establishing a claim of legal professional privilege. I also note that the Department is the holder of the privilege, and has not waived that privilege. Accordingly, I am satisfied that those parts of the requested document are exempt under section 42 of the FOI Act.

2. Business information (section 47G of the FOI Act)

Section 47G(1)(a) of the FOI Act conditionally exempts documents where disclosure would disclose information concerning a person in respect of his or her business or professional affairs, or concerning the business, commercial or financial affairs of an organisation or undertaking (business information),

² FOI Guidelines [5.127].

³ FOI Guidelines [5.129].

where the disclosure of the information would, or could reasonably be expected to, unreasonably affect the person adversely in respect of his or her lawful business or professional affairs or that organisation or undertaking in respect of its lawful business, commercial or financial affairs.

Parts of the requested document contain the business information of an organisation. I consider that such business information is conditionally exempt from release, as its disclosure would, or could reasonably be expected to involve the unreasonable disclosure of business information [of](#) a third party. Accordingly, I am satisfied that those parts of the requested document are conditionally exempt under section 47G(1)(a) of the FOI Act.

3. Public interest

The FOI Act provides that a conditionally exempt document must nevertheless be disclosed unless its disclosure would, on balance, be contrary to the public interest.⁴ In determining whether its disclosure would be contrary to the public interest, the FOI Act requires a decision-maker to balance the public interest factors.

As I have decided that some material is conditionally exempt, I am now required to consider the public interest factors. In doing so, I have not taken into account the irrelevant factors as set out in section 11B(4) of the FOI Act, this includes:

- a) *access to the document could result in embarrassment to the Commonwealth Government, or cause a loss in confidence in the Commonwealth Government*
- b) *access to the document could result in any person misinterpreting or misunderstanding the document*
- c) *the author of the documents was (or is) of high seniority in the agency to which the request for access to the document was made*
- d) *access to the document could result in confusion or unnecessary debate*

In applying the public interest, I have noted the objects of the FOI Act⁵ and the factors favouring access as listed in section 11B(3) of the FOI Act. Having regard to the material before me and the circumstances of the documents found to be conditionally exempt I am satisfied that access would promote the objects of the FOI Act.⁶

The FOI Act does not set out any public interest factors against disclosure and require agencies to have regard to the FOI Guidelines in order to work out if disclosure would, on balance, be contrary to the public interest.⁷ The FOI Guidelines contain a non-exhaustive list of factors that, depending on the circumstances of the documents found to be conditionally exempt, may weigh against disclosure.

⁴ FOI Act, s 11A(5).

⁵ FOI Act, s 3.

⁶ FOI Act, s 11B(3)(a).

⁷ FOI Act, s 11B(5).

In my view, the factors against disclosure of the conditionally exempt material is that disclosure of the information could reasonably be expected to adversely affect the business interests of the relevant third party, given the subject matter discussed within the document.

After careful consideration of all relevant factors, I have decided that, on balance, the factors against disclosure outweigh those favouring disclosure. Accordingly, I am of the view that disclosure of the conditionally exempt material would be contrary to the public interest.

4. Deletion of irrelevant matter

Section 22 of the FOI Act provides that if giving access to a document would disclose information that would be reasonably regarded as irrelevant to the request, it is possible for the Department to prepare an edited copy of the document, modified by deletions, ensuring that the edited copy would not disclose any information that would reasonable be regarded as irrelevant to the request.

On 29 October 2021, the Department advised you of its policy to exclude personal and direct contact details of officers not in the Senior Executive Service (SES) and any Ministerial staff, as well as any person's signature, and the mobile or direct numbers of SES officers, which are contained in the documents that fall within the terms of an FOI request. This category of information is identified as irrelevant and I am satisfied that those parts of the document may be deleted under section 22(1)(a)(ii) of the FOI Act.

The remainder of the document has been released to you (to the extent that it is not exempt) as it is relevant to your request. A copy of the document for release is **attached** to this decision.

Publication of documents

Under section 11C of the FOI Act, the Department will make arrangements to publish the documents released to you on the Department's FOI Disclosure Log.⁸

Review Rights

The FOI Guidelines state that:

*A revised decision does not automatically conclude the IC review. The revised decision will be the decision under review (s 55G(2)(b)). The OAIC will generally consult the applicant as to whether they wish to continue the IC review on the basis of the revised decision.*⁹

Complaints

If you are unhappy with the way we have handled your FOI request, please let us know what we could have done better. If you are not satisfied with our response, you can make a complaint to the

⁸ <https://www.pmc.gov.au/about-us/accountability-and-reporting/information-and-privacy/foi-disclosure-logs>

⁹ FOI Guidelines [10.70].

Australian Information Commissioner. A complaint to the IC must be made in writing. More information about complaints is available [here](#).¹⁰

If you wish to discuss any aspect of your requests, you can contact the FOI Section by email at foi@pmc.gov.au.

Yours sincerely

David Belgrove
Acting Assistant Secretary
Parliamentary and Government Branch
Department of the Prime Minister and Cabinet

X October 2023

¹⁰ <https://www.oaic.gov.au/freedom-of-information/your-freedom-of-information-rights/freedom-of-information-complaints>

s 22(1)(a)(ii)

From: s 47F
Sent: Monday, 16 October 2023 1:00 PM
To: FOI; s 47F
Cc: s 47F
Subject: RE: For review/comments by COB 18 Oct - Draft revised decisions - s 22(1)(a)(ii) and FOI/2021/267IC [SEC=OFFICIAL]

OFFICIAL

Hi s 47F

Happy with the decisions and mark-up as proposed, noting the small edit already picked up by s 47F

Many thanks for preparing these,

s 47F

s 22 (duplicate copy)

s 22(1)(a)(ii)

From: Belgrove, David
Sent: Thursday, 19 October 2023 6:29 PM
To: FOI
Cc: s 47F
Subject: RE: For approval by COB 19 October - FOI/2021/267IC [SEC=OFFICIAL]

Categories: Copy

OFFICIAL

Thanks, s 47F. I'm happy for the decision to go to the next stage.

David

From: FOI <FOI@pmc.gov.au>
Sent: Tuesday, 17 October 2023 9:14 AM
To: Belgrove, David <David.Belgrove@pmc.gov.au>
Cc: FOI <FOI@pmc.gov.au>; s 47F
Subject: For approval by COB 19 October - FOI/2021/267IC [SEC=OFFICIAL]

OFFICIAL

Dear David

Please find attached the draft section 55G revised decision for FOI/2021/267IC, for your approval.

For reference, I have also attached the following:

- Marked-up version of documents; and
- Documents for release.

We sought an extension of time from the OAIC to 27 October 2023, so we are aiming to issue the decision by this date.

Action

- Please review the attached draft decision which has been cleared by s 47F (had a look as well).
- If you have feedback or require any edits/changes please advise me at foi@pmc.gov.au, or
- If you agree with the decision letter, the FOI team will send the 'For Noting' email to FAS Government Division, and then notify the PMO (if required).

Next Steps

- Once notification is complete, we will affix your e-signature to the decision and issue it to the applicant.

It would be appreciated if you could respond by **COB Thursday, 19 October 2023** to enable us to settle any changes ahead of the due date. Please let us know if you require anything further.

Kind regards

s 47F | Adviser

FOI and Privacy Section | Legal Policy Branch

p s 22(1)(a)(ii)

s 22(1)(a)(ii)

From: Walter, Andrew
Sent: Monday, 23 October 2023 2:42 PM
To: FOI
Cc: s 47F Field, Autumn; Belgrove, David
Subject: Re: For noting - Proposed revised decision - FOI/2021/267IC - HOSM [SEC=OFFICIAL]

Categories: Copy

Thanks s 47F. Good with me. A

Sent from my iPad

On 23 Oct 2023, at 1:24 pm, FOI <FOI@pmc.gov.au> wrote:

OFFICIAL

Dear Andrew

Please note the **attached** draft revised decision for FOI/2021/267IC. The marked-up version of documents and version for release are also attached for reference.

We sought an extension of time from the OAIC to **Friday, 27 October 2023**, so we are aiming to issue the decision by this date.

Background

On 18 October 2021, the applicant, Trav S, made a request under the FOI Act (via Right to Know website) to the Department for the following:

On 19 March 2012, your department emailed AusAID (DFAT) stating 'further to your recent discussion with Peter, here's draft text for your consideration that we propose to brief the new PSPM Senator Jan McLucas with soon'. Titled 'amendment of humanitarian overseas service medal (iraq) declaration 2004 to extend to specified commercial contractors' the document recommended the PSPM:

'1. Sign the letter to the Governor-General recommending she makes a declaration under HOSM Regulations 2011, extending eligibility for the 'Iraq' clasp to the medal, to specified commercial contractors (Attachment A).

2. Sign the proposed Humanitarian Overseas Service Medal (Iraq) Declaration 2011 (Attachment B).'

On 11 April 2012 your department emailed AusAID (DFAT) providing a written agreement to 's 47C (deliberative matter), s 47E(d) (operations of an agency) and s 47G (business information) of the FOI Act. However FOI investigations reveal your department evidently withheld the documents from PSPM McLucas.

Please provide a copy of your department's subsequent correspondence to AusAID regarding this matter. Please limit the search to subsequent correspondence occurring between 11 April and 5 December 2012.

One document was identified as falling within scope of the request. The document is an email correspondence in 2012 between PM&C and then AusAid, and s 42

s 42

On 16 November 2021, the Department issued a decision refusing access to the document on the basis that it contains material that is exempt under s 42 (legal professional privilege), s 47C (deliberative matter), s 47E(d) (operations of an agency) and s 47G (business information) of the FOI Act. A subsequent internal review affirmed the original decision. On 11 August 2023, the Department was notified that the applicant sought IC review.

Proposed revised decision under s 55G

After undertaking fresh consultations with the Department's National Security Division (NSD) and DFAT, it became apparent that the sensitivity around the document has lessened due to the passage of time.

The proposed decision is to grant access in part to the document and to continue to refuse access to legally privileged material (section 42) and business information of a third party organisation (section 47G). Irrelevant material has been deleted under section 22 of the FOI Act.

For awareness

We are not aware of any sensitivities in the proposed decision.

Should you require more information, please let us know.

Kind regards,

s 47F | Adviser

FOI and Privacy Section | Legal Policy Branch

p. s 22(1)(a)(ii)

<FOI-2021-267IC - Revised (s55G) Decision.docx>
 <FOI-2021-267IC - Documents marked-up.pdf>
 <FOI-2021-267IC - Documents for release.pdf>

s 22(1)(a)(ii)

From: FOI
Sent: Monday, 23 October 2023 4:41 PM
To: s 47F
Cc: FOI; s 47F; PMC Media; PMO Media; Field, Autumn; Elliston, Lisa; s 47F; Walter, Andrew; Belgrove, David
Subject: Notification of FOI Decision to be issued on 27 October 2023 - FOI/2021/267IC [SEC=OFFICIAL]
Attachments: FOI-2021-267IC - Revised (s55G) Decision.docx; FOI-2021-267IC - Document for release.pdf

OFFICIAL

Dear Colleagues

For your information attached is a copy of the revised FOI decision, and document for release for FOI/2021/267IC, which will be issued to the FOI applicant COB Friday, 27 October 2023.

The document is an email correspondence in 2012 between PM&C and then AusAid, and s 42
 s 42

Background

On 18 October 2021, the applicant, Trav S, made a request under the FOI Act (via Right to Know website) to the Department for the following:

On 19 March 2012, your department emailed AusAID (DFAT) stating 'further to your recent discussion with Peter, here's draft text for your consideration that we propose to brief the new PSPM Senator Jan McLucas with soon'. Titled 'amendment of humanitarian overseas service medal (iraq) declaration 2004 to extend to specified commercial contractors' the document recommended the PSPM:

'1. Sign the letter to the Governor-General recommending she makes a declaration under HOSM Regulations 2011, extending eligibility for the 'Iraq' clasp to the medal, to specified commercial contractors (Attachment A).

2. Sign the proposed Humanitarian Overseas Service Medal (Iraq) Declaration 2011 (Attachment B).'

On 11 April 2012 your department emailed AusAID (DFAT) providing a written agreement to 'settle the declaration ... and brief the PSPM next week'. However FOI investigations reveal your department evidently withheld the documents from PSPM McLucas.

Please provide a copy of your department's subsequent correspondence to AusAID regarding this matter. Please limit the search to subsequent correspondence occurring between 11 April and 5 December 2012.

One document was identified as falling within scope of the request. On 16 November 2021, the Department issued a decision refusing access to the document on the basis that it contains material that is exempt under s 42 (legal professional privilege), s 47C (deliberative matter), s 47E(d) (operations of an agency) and s 47G (business information) of the FOI Act. A subsequent internal review affirmed the original decision. On 11 August 2023, the Department was notified that the applicant sought IC review.

Proposed revised decision under s 55G

After undertaking fresh consultations with the Department's National Security Division (NSD) and the Department of Foreign Affairs and Trade (DFAT), it became apparent that the sensitivity around the document has lessened due to the passage of time.

The proposed decision is to grant access in part to the document and to continue to refuse access to legally privileged material (section 42) and business information of a third party organisation (section 47G). Irrelevant material has been deleted under section 22 of the FOI Act.

For awareness

The Department is not aware of any sensitivities with this decision.

Kind regards
 s 47F

Adviser | FOI Section
 Department of the Prime Minister and Cabinet
 s 22(1)(a)(ii)

Ngunawal Country, One National Circuit Barton ACT 2600 | PO Box 6500 CANBERRA ACT 2600
 e. foi@pmc.gov.au w. pmc.gov.au



The Department acknowledges and pays respect to the past, present and emerging Elders and Traditional Custodians of Country, and the continuation of cultural, spiritual and educational practices of Aboriginal and Torres Strait Islander peoples.

From: [OAIC - FOI DR](#)
To: [FOI](#)
Subject: MR21/01441 - Notice of IC review and request for documents [SEC=OFFICIAL]
Date: Friday, 11 August 2023 12:30:29 PM
Attachments: [MR21-01441 - Notice of IC Review.pdf](#)
[form-receipt.pdf](#)
[2021-12-13 FOI IR access refusal regarding subsequent correspondence with ausaid\(2\).pdf](#)

Our reference: MR21/01441
Agency reference: FOI/2021/267IR

FOI Contact Officer
Department of the Prime Minister and Cabinet

By email: xxx@xxx.xxx.xx

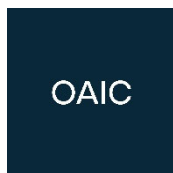
Notice of IC review and request for documents

Dear FOI Contact Officer

Please find attached the notice of IC review and request for documents.

Please note, the Information Commissioner will share the submissions you provide during IC review with the applicant unless there are compelling reasons not to. However, we do not provide the applicant with copies of the documents at issue. Should you wish to provide submissions in confidence, please refer to the [IC Review Procedure Direction](#) which sets out the process for making such a request.

Kind regards



s 47F (she/her)
Intake and Early Resolution Officer
Freedom of Information Branch
Office of the Australian Information Commissioner
Sydney | GPO Box 5288 Sydney NSW 2001
P 1300 363 992 E xxxxx@xxx.xxx.xx

The OAIC acknowledges Traditional Custodians of Country across Australia and their continuing connection to land, waters and communities. We pay our respect to First Nations people, cultures and Elders past and present.

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Notice:

The information contained in this email message and any attached files may be confidential information, and may also be the subject of legal professional privilege. If you are not the intended recipient any use, disclosure or copying of this email is unauthorised. If you received this email in error, please notify the sender by contacting the department's switchboard on 1300 488 064 during business hours (8:30am - 5pm Canberra time) and delete all copies of this transmission together with any attachments.



Australian Government

Office of the Australian Information Commissioner

Our reference: MR21/01441

Agency reference: FOI/2021/267IR

FOI Contact Officer

Department of the Prime Minister and Cabinet

By email: FOI@pmc.gov.au

Notice of IC review application and request for documents

Dear FOI Contact Officer

The Office of the Australian Information Commissioner (OAIC) has received an application for Information Commissioner review of a decision made by Department of the Prime Minister and Cabinet under the *Freedom of Information Act 1982* (the FOI Act). A copy of the IC review application and the decision under review are attached.

Scope of IC review

The IC review applicant contests the respondent's reasons for refusing access as set out in the decision under review.

Request for information

Paragraph 10.100 of the Guidelines issued under s 93A of the FOI Act sets out the information that the Respondent must provide to the OAIC. Please provide the information outlined in paragraph 10.100 of the Guidelines that relate to this review.

Compliance with this notice can be met by delivering the response to foidr@oaic.gov.au by **1 September 2023**.

Obligations during the IC review process

The obligations of the Respondent during the IC review process are set out under:

- ss 55D, 55DA and 55Z of the FOI Act
- Part 10 the Guidelines issued under s 93A of the FOI Act, which agencies and ministers must have regard to when performing a function or exercising a power under the FOI Act

- Direction as to certain procedures to be followed in IC reviews issued under s 55(2)(e)(i) of the FOI Act.

Yours sincerely

s 47F

Intake and Early Resolution Team
Freedom of Information Regulatory Branch
Office of the Australian Information Commissioner

[Enclosed: IC review application and decision under review].

11 August 2023



Australian Government
**Office of the Australian
Information Commissioner**

Reference code: 9BNSH5V5

Information Commissioner Review Application form

Getting started

The Office of the Australian Information Commissioner can review a Freedom of Information (FOI) decision made by an Australian Government agency or an Australian Government Minister.

The Office does not review FOI decisions made by State, Territory or local government agencies.

The Office encourages you to apply for an internal review by the agency before lodging a request for review with this Office. Information relating to the internal review process

(<https://www.oaic.gov.au/freedom-of-information/reviews/internal-review/>) is available on our website (<https://www.oaic.gov.au/>).

The Information Commissioner has given a general direction under s 55(2)(e)(i) of the FOI Act which sets out the procedure to be followed by applicants for IC reviews undertaken by the Information

Commissioner under the FOI Act. To view the [direction](https://www.oaic.gov.au/freedom-of-information/reviews/direction-as-to-certain-procedures-to-be-followed-by-applicants-in-information-commissioner-reviews) (<https://www.oaic.gov.au/freedom-of-information/reviews/direction-as-to-certain-procedures-to-be-followed-by-applicants-in-information-commissioner-reviews>) and the 'Quick guide' (<https://www.oaic.gov.au/freedom-of-information/reviews/quick-guide-information-commissioner-review-direction-for-applicants>), please visit our website.

Information relating to the Information Commissioner review process (<https://www.oaic.gov.au/freedom-of-information/reviews/information-commissioner-review-process/>) is available on our website. Part 10 of the FOI Guidelines (<https://www.oaic.gov.au/freedom-of-information/foi-guidelines/part-10-review-by-the-information-commissioner/>) (Review by the Information Commissioner) describes the principles that inform the OAIc's approach to Information Commissioner review.

An application for review must be submitted in writing, either via this form, an email, or in a letter. If you have trouble completing this form please send an email to FOIDR@oaic.gov.au.

Your details - IC review applicant

If you have contacted the OAIC previously about this or another matter, please provide your previous reference number (eg E11/00001, MR18/00001)

MR19/00685

Title

Ms 47F

Given name *

Family name *

Ms 47F

Preferred contact method (you must provide at least one contact method) *

Email	Phone	Post	Other
-------	-------	------	-------

Email address *

Ms 47F

Phone (daytime)

Include area code

Mobile

Ms 47F

Postal address

Start typing full address here..

Other contact details (eg. fax or international address)

Do you require any assistance to participate in the IC review process?

For example: an interpreter. Please detail below.

Do you have someone you would like to represent you in your review? *

Yes	No
-----	----

Review details

Agency or Minister

Please select the Australian Government agency or Minister that made the decisions you want reviewed. If you want more than one decision reviewed, you will need to make a separate application for each decision. *

Australian Government Agency
Minister

Agency information

Please select the Australian Government Agency that made the decision you want reviewed *

- Administrative Appeals Tribunal
- Attorney General's Department
- Australian Federal Police
- Australian Securities and Investments Commission
- Australian Taxation Office
- Australian Transaction Reports and Analysis Centre
- Commonwealth Ombudsman
- Department of Agriculture, Water and the Environment
- Department of Defence
- Department of Education, Skills and Employment
- Department of Jobs and Small Business
- Department of Foreign Affairs and Trade
- Department of Health
- Department of Human Services
- Department of Home Affairs
- Department of Industry, Science, Energy and Resources
- Department of Infrastructure, Transport, Regional Development and Communications
- Department of Prime Minister and Cabinet
- Department of Social Services
- Department of the Treasury
- Department of Veterans' Affairs
- Other

Other Australian Government Agency *

Department of the Prime Minister and Cabinet

Previous contact with agency

If the agency has given you a reference number relevant to your FOI request, please provide here.

Prime Minister and Cabinet

NOTE: We do not need to know your fax/f e number, so please do not provide .

Information Commissioner review details

Have you received a decision? *

Yes	No
-----	----

To make a valid application for IC review you must send us a copy of the decision you want reviewed. If a decision is not provided, your application may not be valid. *

Files you attach must:

- be in *.jpg, *.gif, *.png, *.pdf, *.doc, *.docx, *.xls, *.xlsx, *.xlsx formats
- be no more than five files in total
- no larger than 20MB.

2021-12-13 FOI IR access refusal regarding subsequent correspondence with ausaid.pdf

Is the decision that you are seeking review of an original decision or an internal review decision? *

Original decision
Internal review decision

When was the decision made? *

13 Dec 2021

In most cases you must apply for IC review (<https://www.oaic.gov.au/freedom-of-information/foi-guidelines/par-10-review-by-the-information-commissioner/#application-for-review>) within 60 days of being notified of the Minister's or agency's decision to refuse access to documents (<https://www.oaic.gov.au/freedom-of-information/foi-guidelines/par-10-review-by-the-information-commissioner/#access-refusal-decisions>). You must apply within 30 days if you are requesting review of a decision to grant access to documents to another person (<https://www.oaic.gov.au/freedom-of-information/foi-guidelines/par-10-review-by-the-information-commissioner/#access-grant-decisions>).

You can also ask the Information Commissioner to grant you more time to apply for IC review.

Is your application for IC review being made within the above timeframes? *

*

Yes	No
-----	----

I am seeking IC review because the Agency or Minister (more than one option can be selected if appropriate): *

- refused access to documents or parts of documents I requested

Advise scope of review. *

Please provide a summary of which exemption/s you disagree with and provide reasons why you disagree.

Are there any particular documents (no page number) that you would like reviewed?

1. We disagree with the section 42 exemption claim applied to the emails' non-substantive matters such as subject line, address block, date/time, signature, closing words and signature block. The Federal Court ruled such information is not exempt under section 42 of the FOI Act in 'Taggar and C v Avia on Safety Authority (FOI) [2016] AATA 327 Forge DP

2. We disagree with conditional exemptions claimed via sections 47C, 47E(d) and 47G of the FOI Act. Please consider:

a. Section 47C(3)(c) of the FOI Act states section 47C does not apply to the record of, or a formal statement of the reasons for, a final decision given in the exercise of a power or of an adjudicative function. The document we seek appears to meet this exception (c).

b. Section 47E Notes states access must generally be given to a conditional exempt document unless it would be contrary to the public interest. We respectfully contend that the public interest factors favouring disclosure outweigh those against and we respectfully ask the Commissioner to consider the department's section 47E claims. The inherent public interest in ensuring Australia's public servants act in accordance with the rules and obligations is profound and clear. As the public interest in ensuring decision maker's decisions are lawful and made in accordance with the powers delegated to them. Relevantly, documents show the department provided a written agreement to AusAID to deliver the proposed amendment to PSPM McLucas. Airming FOI documents reveal the department withheld the documents from the Minister. The department has never satisfactorily explained why they withheld the documents from the PSPM and their excuses are weak and unsubstantiated. Section 3(2)(b) of the FOI Act enables increased scrutiny, discussion, comment and review of the government's activities. Documents on hand show a dishonoured agreement. The integrity of the HOSM and its associated processes is in doubt and the public are entitled to know if the department acted properly at this juncture.

c. The department has no satisfactory explanation for section 47G claim. Conro Risk Group and AusAID fully supported the proposed amendment and expected to be delivered to PSPM McLucas in accordance with the department's written agreement to do so. The department has no satisfied how disclosure would affect CRG given they were, and are, in support.

- refused access because a practical refusal reason exists
- refused access because documents cannot be found
- deferred access to documents I requested
- refused to make corrections to my personal information
- decided to release information about me or my business.
- charged me incorrectly
- granted access to documents but I have not received them
- granted access to a qualified person and not directly to me
- refused to extend the time for me to seek an internal review
- granted access to documents that I was consulted about
- granted access to documents that my business was consulted about

Please provide a summary of why you think the decisions are wrong *

Please refer above

If you would like review of the personal privacy exemption (s 47F), do you have consent of the third party/es whose information you seek

Yes	No
-----	----

Does your Information Commissioner review application relate to other legal proceedings? *

(for example, Administrative Appeals Tribunal, Federal Court, Federal Circuit Court etc.) *

Yes	No
-----	----

What action or result would you like from the Information Commissioner *

Please ask the department to release the document with the non-substantive matters such as subject line, address block, date/time, salutation, classification, closing words and signature block

Please consider our concerns challenging the department's conditional exemption claims

Please review the department's 2012 email to AusAID. If permitted, we seek to know if the department informed AusAID that they had withheld the proposed amendments from PSPM McLucas. Did they inform AusAID that they were continuing consultations and deliberations? Did they refer to the General Electric precedent in their response to AusAID?

Supporting documents

To assist us, please provide the following:

- a copy of your original FOI request to the Agency or Minister
- a copy of the decision made on your request if one has been received, and
- any correspondence you have had with the Agency or Minister.

If you are lodging the review for someone else, you should also attach any documents which indicate you are authorised to act for that person. You can attach these documents electronically or provide them by post.

You may also attach other relevant documents that support your application.

Files you attach must:

- be in *.jpg, *.gif, *.png, *.pdf, *.doc, *.docx, *.x, *.xls, *.xlsx format
- be no more than five files
- in total be no larger than 20MB.

[2021-11-16 FOI 2021:267.pdf](#)

[2020-12-14 IC Review MR19:00685.pdf](#)

[2021-12-13 FOI IR access refusal regarding subsequent correspondence with ausaid.pdf](#)

Do you have any paper documents you wish to post to the OAIC? *

Yes	No
-----	----

Submission

Submitting your application for review

Please review the information you have provided in this form. If you would like to change anything, you can return to the relevant section by using the **Go Back** button.

Once you are ready to submit your form, click the **Submit** button below.

Once you submit your form, you will be taken to a confirmation page. This page will provide a receipt number for your submission, and you will be able to download a copy of your completed form or have a copy sent to an email address of your choice.

Further information about the Information Commissioner review process (<https://www.oaic.gov.au/freedom-of-information/foi-guidelines/part-10-review-by-the-information-commissioner/>), including about what happens when an Information Commissioner review application is made (<https://www.oaic.gov.au/freedom-of-information/foi-guidelines/part-10-review-by-the-information-commissioner/#steps-in-the-information-commissioner-review-process>), can be found on our website (<https://www.oaic.gov.au/>).

From: [FOI](#)
To: [OAIC - FOI DR](#)
Cc: [FOI](#)
Subject: RE: Extension of time request - MR21/01441 - Notice of IC review and request for documents [SEC=OFFICIAL]
Date: Friday, 29 September 2023 4:32:56 PM
Attachments: [image006.png](#)
[image013.png](#)
[image015.png](#)
[image016.png](#)
[image017.png](#)

OFFICIAL

OAIC ref: MR21/01441
PM&C reference FOI/2021/267IC

Dear 

Thank you for granting us an extension to 29 September 2023 for this matter and related matter  s 22(1)(a)(ii)

As foreshadowed in the related matter, the Department is undertaking further consultations and enquiries in an attempt to identify if any material is now able to be released to the applicant under a revised decision.

Given the Department's further consideration of this matter, we request an additional extension of time to 27 October 2023. I would be grateful for your confirmation that the OAIC is amenable to the extension request.

Kind regards

 s 47F


Adviser | FOI Section

Department of the Prime Minister and Cabinet

p.  s 22(1)(a)(ii)

Ngunawal Country, One National Circuit Barton ACT 2600 | PO Box 6500 CANBERRA ACT 2600

e. xxx@xxx.xxx.xx w. pmc.gov.au

 The Department acknowledges and pays respect to the past, present and emerging Elders and Traditional Custodians of Country, and the continuation of cultural, spiritual and educational practices of Aboriginal and Torres Strait Islander peoples.

From: OAIC - FOI DR <xxxxx@xxx.xxx.xx>
Sent: Friday, 22 September 2023 8:41 AM
To: FOI <xxx@xxx.xxx.xx>
Subject: RE: Extension of time request - MR21/01441 - Notice of IC review and request for documents [SEC=OFFICIAL:Sensitive]

OFFICIAL: Sensitive

Dear s 47F

Thank you for your email. I apologise for the delay in responding to your requests.

With respect to your request to provide submissions in confidence, I grant your request on the basis that you provide an open submission to be shared with the applicant.

Your request for an extension of time to provide a response to the section 54Z Notice until **29 September 2023** is granted.

Thank you for your patience.

Kind Regards



s 47F
Assistant Director Freedom of Information
Office of the Australian Information Commissioner
Sydney | GPO Box 5288 Sydney NSW 2001
P 1300 362 992 E xxxxx@xxxx.xxx.xx

The OAIC acknowledges Traditional Custodians of Country across Australia and their continuing connection to land, waters and communities. We pay our respect to First Nations people, cultures and Elders past and present.

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OFFICIAL: Sensitive

From: FOI <xxx@xxx.xxx.xx>
Sent: Monday, September 18, 2023 12:17 PM
To: OAIC - FOI DR <xxxxx@xxxx.xxx.xx>
Cc: FOI <xxx@xxx.xxx.xx>
Subject: RE: Extension of time request - MR21/01441 - Notice of IC review and request for documents [SEC=OFFICIAL]

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OFFICIAL

OAIC ref: MR21/01441
PM&C reference FOI/2021/267IC

Dear s 47F

I am just following up in relation to the request for extension below.

Please let us know if you require anything further.

Kind regards

s 47F

Adviser | FOI Section

Department of the Prime Minister and Cabinet

p s 22(1)(a)(ii)

Ngunawal Country, One National Circuit Barton ACT 2600 | PO Box 6500 CANBERRA ACT 2600

e. xxx@xxx.xxx.xx w. pmc.gov.au

The Department acknowledges and pays respect to the past, present and emerging Elders and Traditional Custodians of Country, and the continuation of cultural, spiritual and educational practices of Aboriginal and Torres Strait Islander peoples.

From: FOI <xxx@xxx.xxx.xx>

Sent: Tuesday, 12 September 2023 3:49 PM

To: OAIC - FOI DR <xxxxx@xxxx.xxx.xx>

Cc: FOI <xxx@xxx.xxx.xx>

Subject: RE: Extension of time request - MR21/01441 - Notice of IC review and request for documents [SEC=OFFICIAL]

OFFICIAL

Dear s 47F

Thank you for granting the Department's extension of time request.

By way of an update, we have now received consultation comments regarding this matter. The Department is now preparing submissions and documents as set out in paragraph 10.100 of the FOI Guidelines. We note that our submissions will likely contain confidential material which we claim is exempt from release under the FOI Act. Accordingly, we seek the OAIC's agreement to receive confidential submissions, accompanied by an open version that can be shared with the applicant.

In addition, the submissions would require thorough review from the relevant line area before it can be finalised. Due to competing priorities within the FOI section and the subject matter line area, as well as staff leave on both sections, we are seeking a further 2-week extension of time to Friday, 29 September 2023 to provide our submissions.

We would be grateful if you could please advise if the OAIC would be amenable to our requests for extension of time and to provide confidential submissions. If you require further information, please let me know.

Kind regards

s 47F

Adviser | FOI Section

Department of the Prime Minister and Cabinet

p. **s 22(1)(a)(ii)**

Ngunawal Country, One National Circuit Barton ACT 2600 | PO Box 6500 CANBERRA ACT 2600

e. xxx@xxx.xxx.xx w. pmc.gov.au



The Department acknowledges and pays respect to the past, present and emerging Elders and Traditional Custodians of Country, and the continuation of cultural, spiritual and educational practices of Aboriginal and Torres Strait Islander peoples.

From: OAIC - FOI DR <xxxxx@xxx.xxx.xx>

Sent: Tuesday, 29 August 2023 1:23 PM

To: FOI <xxx@xxx.xxx.xx>

Subject: RE: Extension of time request - MR21/01441 - Notice of IC review and request for documents [SEC=OFFICIAL]

Dear **s 47F**

Thank you for your email, your extension of time request is granted to 15 September 2023.

Kind regards

s 47F



Freedom of Information Branch
Office of the Australian Information Commissioner
GPO Box 5288 Sydney NSW 2001 | oaic.gov.au
1300 363 992 | xxxxx@xxx.xxx.xx

    [Subscribe to OAICnet newsletter](#)

From: FOI <xxx@xxx.xxx.xx>

Sent: Tuesday, August 29, 2023 11:04 AM

To: OAIC - FOI DR <xxxxx@xxx.xxx.xx>

Cc: FOI <xxx@xxx.xxx.xx>

Subject: Extension of time request - MR21/01441 - Notice of IC review and request for documents [SEC=OFFICIAL]

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OFFICIAL

OAIC ref: **MR21/01441**

PM&C reference FOI/2021/267IC

Dear **s 47F**

I write in relation to the abovementioned matter.

Given the passage of time, the Department is currently undertaking internal consultations (and possibly to be followed by external consultations), to assess the ongoing sensitivity of the material in question and to identify if there is any material which may now be appropriate for release.

Given this, we request a two-week extension of time to Friday, 15 September 2023, to enable the Department to receive the consultation comments and settle our position. Should the Department need further time than this, we will promptly update the OAIC.

Thank you for your consideration. Please let us know if you require further information.

Kind regards

s 47F

Adviser | FOI and Privacy

Department of the Prime Minister and Cabinet

p **s 22(1)(a)(ii)**

Ngunnawal Country | One National Circuit Barton ACT 2600 | PO Box 6500 CANBERRA ACT 2600

e. xxx@xxx.xxx.xx w. pmc.gov.au

s 22(1)(a)(ii)

From: FOI
Sent: Friday, 27 October 2023 5:10 PM
To: 'foi+request-7981-fe1bc995@righttoknow.org.au'
Cc: 'foidr@oaic.gov.au'; FOI
Subject: FOI/2021/267IC - Revised decision on your FOI request [SEC=OFFICIAL]
Attachments: FOI-2021-267IC - Revised (s55G) Decision.pdf; FOI-2021-267IC - Document for release.pdf

Categories: Copy

OFFICIAL

PM&C ref: FOI/2021/267IC
OAIC ref: MR21/01441

Dear Trav S

Please find attached a revised decision made under section 55G of the *Freedom of Information Act 1982* as well as the document released to you.

The Office of the Australian Information Commissioner has been copied to this email, for their awareness.

Yours sincerely,

Adviser | FOI Section
Department of the Prime Minister and Cabinet
p. (02) 6271 5849
Ngunawal Country, One National Circuit Barton ACT 2600 | PO Box 6500 CANBERRA ACT 2600
e. foi@pmc.gov.au w. pmc.gov.au



The Department acknowledges and pays respect to the past, present and emerging Elders and Traditional Custodians of Country, and the continuation of cultural, spiritual and educational practices of Aboriginal and Torres Strait Islander peoples.