



Frank N Fearless

Via email to: foi+request-11178-cca17466@righttoknow.org.au

Dear Frank N Fearless,

Freedom of Information Request 49760 – Decision on access

I refer to the *Freedom of Information Act 1982 (FOI Act)* request made to the Department of Social Services (**Department**) on 29 February 2024. The request seeks access to:

agenda, papers and minutes for the last two monthly meetings

The request identified the relevant meetings as those referred in the Department and Services Australia's joint response to the second ombudsman's report on income apportionment (the **response**). The meetings are referred in addressing recommendation 8 on the last page of the response found at the following link: https://www.ombudsman.gov.au/_data/assets/pdf_file/0019/302059/FINAL-Income-Appportionment-OMI2-Report.pdf.

I am authorised to make decisions in respect of FOI requests under subsection 23(1) of the FOI Act.

Decision

I have decided to grant partial access to the documents sought by the request as they contain material that is conditionally exempt under sections 47E(d) (certain operations of an agency) and 47F (personal privacy) and access would be contrary to the public interest.

The documents and my decision in relation to each are set out in the Schedule of Documents at **Attachment A (Schedule)**.

The reasons for my decision are set out in the Statement of Reasons at **Attachment B**.

Review rights and complaints

Information concerning how you may seek a review of this decision or make a complaint about the handling of this request is at **Attachment C**.

Publication

Section 11C of the FOI Act requires agencies to publish details on how to access documents released in response to FOI requests on their website within 10 days of release unless except where that publication would be unreasonable.

The documents released in response to this request do not contain any information that would be unreasonable to publish. As a result, details on how to access them will be published on the Department's disclosure log within 10 days of this decision.

Contact

If you would like to discuss any aspect of my decision, please contact me at foi@dss.gov.au.

Yours sincerely

A handwritten signature in black ink, appearing to read 'BW', is positioned above the typed name.

Bronwyn Worswick
Authorised FOI Decision Maker

19 April 2024

Attachments

- A – Schedule of Documents
- B – Statement of Reasons
- C – Review rights

SCHEDULE OF DOCUMENTS

Doc No	Description of document	Decision
1	Meeting agenda 11 January 2024	<i>Release in full</i>
2	Meeting minutes 11 January 2024	<i>Release in part</i> Section 47F – names of Departmental and government agency staff members
3	Meeting agenda 22 February 2024	<i>Release in part</i> Section 47F – names of Departmental and government agency staff members
4	Meeting minutes 22 February 2024	<i>Release in part</i> Section 47F – names of Departmental and government agency staff members
5	Services Australia _Complaints data_Dec23	<i>Release in part</i> Section 47(E)d – adverse effect on the operations of an agency (Services Australia Information and Communication Technology (ICT) systems)

STATEMENT OF REASONS

Material on which the decision is based

1. I relied on the following material in coming to this decision:
 - the terms of the FOI request;
 - the documents subject to the FOI request;
 - advice from subject matter experts within the Department regarding the nature and sensitivity of the documents subject to the request;
 - the FOI Act;
 - responses from third parties consulted in the course of processing the request; and
 - the Guidelines issued by the Office of the Australian Information Commissioner under section 93A of the FOI Act (**FOI Guidelines**).

Section 47F – Personal Information

2. Section 47F of the FOI Act relevantly provides that a document is conditionally exempt if its disclosure under this Act would involve the unreasonable disclosure of personal information about any person (including a deceased person). Access to the conditionally exempt document may only be withheld where it is contrary to the public interest.
3. Certain documents subject to the request (as identified in the Schedule) contain personal information, specifically names of Departmental and third party government staff. I am satisfied that this personal information is not publicly available, nor are the individuals concerned well known to be involved in the matters described in the documents.
4. For the reasons above I am satisfied that disclosure of this personal information would be unreasonable and therefore is conditionally exempt under section 47F(1) of the FOI Act.
5. When considering whether access to this personal information is contrary to the public interest, I acknowledge that access would inherently promote the objects of the FOI Act, demonstrating full transparency of government. However, providing access to this personal information would also intrude on the privacy of the individuals to whom the personal information relates whilst also not providing great insight into the decision-making processes of the Department. This adverse effect outweighs any benefit that could flow from disclosing that personal information.
6. As a result, I am satisfied that access to the personal information would be contrary to the public interest and have decided to withhold access to it.

Section 47E(d) – Adverse effect on the operations of an agency

7. Section 47E(d) of the FOI Act provides that a document is conditionally exempt if its disclosure would, or could reasonably be expected to have a substantial adverse effect on the proper and efficient conduct of the operations of an agency. Access to the conditionally exempt document may only be withheld where it is contrary to the public interest.
8. A document subject to the request (as identified in the Schedule) contains details of Services Australia's (**SA's**) internal databases, including hyperlinks to those databases, which could be used by malicious actors to navigate and exploit SA's Information Communication Technology (ICT) systems. As a result, disclosure of this material would expose SA to cyber-attacks which could reasonably have substantial adverse effects on their operations.

9. For the reasons above I am satisfied that disclosure of this information at this time would have a substantial adverse effect on the operations of SA and therefore is conditionally exempt under section 47E(d) of the FOI Act.
10. When considering whether access to this conditionally exempt material is contrary to the public interest, I acknowledge that access would inherently promote the objects of the FOI Act, demonstrating full transparency of government. However, providing access would not grant insight into the decision-making processes of government, and as explained in paragraph 8, would only increase the likelihood that cyber-attacks may occur on Services Australia. This adverse effect outweighs any benefit that could flow from disclosing that information.
11. As a result, I am satisfied that access to the conditionally exempt information would be contrary to the public interest and have decided to withhold access to it.

INFORMATION ON REVIEW RIGHTS

You may seek review of this decision via:

- (a) an internal review; or
- (b) the Australian Information Commissioner (**Information Commissioner**).

Internal review

If you apply for internal review, a fresh decision will be made by a different decision-maker within the Department. An application for internal review must be:

- (a) made in writing;
- (b) made within 30 days of receiving this letter; and
- (c) sent to foi@dss.gov.au.

The application should also include the reasons why you think this decision should be reviewed.

If the internal review decision results in you not being provided access to all of the documents to which you have requested access, you have the right to seek a further review by the Information Commissioner.

Information Commissioner review

You can apply for the Information Commissioner to review this decision either immediately or following an internal review decision. You must apply to the Information Commissioner within 60 days of the receipt of this decision letter.

Further details on this process can be found on the Information Commissioner's website at <https://www.oaic.gov.au/>.

COMPLAINTS TO THE INFORMATION COMMISSIONER

You may also make a complaint to the Information Commissioner concerning actions taken by the Department while exercising its powers or performing its functions under the FOI Act.

Further details on this process can be found on the Information Commissioner's website at <https://www.oaic.gov.au/>.