

GPO Box 869, Brisbane QLD 4001

Mr Patrick Conheady
Via email
foi+request-1574-be92d668@righttoknow.org.au



Australian Government
Australian Taxation Office

Our reference: 1-7REW0UI
Contact officer: Rod Durnan
Phone: (07) 3213 5579

19 May 2016

Decision regarding your Freedom of Information request

Dear Mr Conheady

Re: Your freedom of information request

I refer to your request dated 22 February 2016 under the *Freedom of Information Act* 1982 (the FOI Act), in which you sought access to 'documents containing the expert IT security advice' that was relied on in the decision to your earlier FOI request (dated 27 February 2015) for SQL queries.

I am an officer authorised under section 23 of the FOI Act to make decisions regarding access to documents.

Decision

I have located 2 documents, which fall within the scope of your request, and I have decided to release those documents in part.

In reaching my decision I relied on the following documentary evidence

- the FOI Act,
- the contents of the documents requested,
- information provided by the officer searching for documents, and
- the guidelines published by the Office of the Australian Information Commissioner.

Section 47E(d) – Operations of an agency

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.

The documents requested are internal ATO documents which contain the names and positions of IT security officers. The adverse effect primarily relates to the security of personnel. The officers who provided the requested advice engage in sensitive tasks involving security. To release the names of these particular officers could reasonably be expected to expose them to unwanted attention, breach their privacy and compromise their personal safety.

I, therefore, consider that the material redacted is conditionally exempt from disclosure under section 47E(d) of the FOI Act.

Public Interest

Section 11A(5) provides that I must give you access to the documents that are conditionally exempt unless (in the circumstances) access to the documents would, on balance, be contrary to the public interest.

I find that the following public interest factors favour access to the conditionally exempt documents being provided to you.

1. Access to the conditionally exempt documents would give you access to information held by a Commonwealth agency, which is information that is a national resource and managed for public purposes. In light of the nature of the documents requested, being documents which reveal the names of personnel dealing with sensitive IT security issues, I give this factor low weight.

I find that the following public interest factors do not favour access to the conditionally exempt documents being provided to you.

1. The release of names and position titles of the officers in these documents could compromise their personal safety. I give this factor considerable weight.

Having considered the public interest factors set out above, I have decided that the harm that could result in providing you with access to the conditionally exempt parts of the documents outweighs the benefits in providing the documents to you and would, on balance, be contrary to the public interest. In coming to this conclusion, I did not take into account any of the factors set out at section 11B(4) of the FOI Act.

As such, I have decided that the documents that are conditionally exempt under section 47C are exempt documents.

Section 22(1)(a)(ii)- material irrelevant to the request

Section 22(1)(a)(ii) allows me to delete material that would reasonably be regarded as irrelevant to the scope of the request. The material that I consider to be irrelevant to the scope of your FOI request is the contact information of ATO IT security staff. I have deleted that material accordingly.

Your review rights

If you are dissatisfied with my decision, you may apply for internal review or review by the Information Commissioner of the decision. We encourage you to seek internal review as a first step as it may provide a more rapid resolution of your concerns.

Internal review

Under section 54 of the FOI Act, you may apply in writing to the ATO for an internal review of my decision. The internal review application must be made within 30 days of the date of this letter. Where possible please attach reasons why you believe review of the decision is necessary. The internal review will be carried out by another officer within 30 days.

Information Commissioner review

Under section 54L of the FOI Act, you may apply to the Australian Information Commissioner to review my decision. An application for review by the Information Commissioner must be made in writing within 60 days of the date of this letter, and be sent to:

post: GPO Box 5218, Sydney NSW 2001

email: enquiries@oaic.gov.au

More information about review by the Information Commissioner is available on the Office of the Australian Information Commissioner website, www.oaic.gov.au.

You may also apply to the Information Commissioner if you have not been informed of the outcome of an internal review within 30 days.

Complaints

Any complaint about the processing of your FOI request can be directed to the Commonwealth Ombudsman. The complaint should set out the grounds on which you consider the action should be investigated. Complaints can be made in writing, by phone, in person or by using an online form available from their website.

- 1300 362 072
- ombudsman@ombudsman.gov.au
- GPO Box 442 Canberra ACT 2601
- www.ombudsman.gov.au/pages/making-a-complaint/

More information

If you have any questions, please phone **13 28 69** between 8.00am and 4.00pm, Monday to Friday, and ask for Rod Durnan on extension **35579**.

Yours sincerely,



Rod Durnan
Senior Legal Adviser
General Counsel