

GPO Box 869, Brisbane QLD 4001



**Australian Government**  
**Australian Taxation Office**

Mr Patrick Conheady  
Via email:  
foi+request-1722-8d796a16@righttoknow.org.au

Our reference: 1-7SNVS5I  
Contact officer: Rod Durnan  
Phone: (07) 3213 5579

19 May 2016

Dear Mr Conheady,

***FREEDOM OF INFORMATION ACT 1982* – Notice of Decision**

**FOI Request No: 1-7SNVS5I**

The purpose of this letter is to give you a decision about access to documents that you requested under the *Freedom of Information Act 1982* (FOI Act).

**Summary**

I am an officer authorised under section 23(1) of the FOI Act to make decisions in relation to FOI requests.

You requested access to documents on 5 March 2016. Specifically you sought access to:

- *Advice from the ATO IT security area pertaining to the decision to refuse access to data dictionaries.*

I have decided to grant access in part to the requested documents.

More information is set out below.

**DECISION AND REASONS FOR DECISION**

**Material taken into account**

I have taken the following into account in making my decision:

- 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 advice from the ATO IT security area. The ATO considers that the release of some of this material could reasonably be expected to have a substantial adverse effect on the proper and efficient conduct of the operations of the ATO.

In relation to the content the nature of the adverse effect primarily relates to increased risk of unauthorised access to ATO IT systems. This is because the advice provides information about how the ATO IT security operates which is not publicly known and which could assist in an attack on ATO systems. A successful attack on our IT systems would lead to loss of confidentiality, integrity and/or availability of affected systems and related taxpayer information.

In relation to 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 information about the security of the ATO's IT assets, I given this factor low weight because to provide those documents could have the effect of compromising the security of a public resource.

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

1. The redacted advice is in relation to the security of ATO IT systems. Security of ATO IT systems is integral to the effective operations of this agency. The release of this particular advice could reasonably be expected to prejudice the security of our IT systems as it reveals information about IT security measures the ATO has in place. I give this factor considerable weight.
2. 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**

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](mailto: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](http://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.

- [ombudsman@ombudsman.gov.au](mailto:ombudsman@ombudsman.gov.au)
- GPO Box 442 Canberra ACT 2601
- [www.ombudsman.gov.au/pages/making-a-complaint/](http://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