



Australian Government

Department of Finance

Reference: FOI 16/40
Contact: FOI Team
Telephone: (02) 6215 1783
e-mail: foi@finance.gov.au

Mr Jackson Gothe-Snape

via email: foi+request-1736-1d83b942@righttoknow.org.au

Dear Mr Gothe-Snape,

Freedom of Information Request – FOI 16/40

Thank you for your email to the Department of Finance (Finance) in which you sought access to the following under the *Freedom of Information Act 1982* (FOI Act).

Can you please provide the topics list for briefs created in preparation for the additional estimates hearing of the Senate Finance and Public Administration Legislation Committee in February 2016.

Original Decision

On 13 April 2016, Finance sent you a Statement of Reason advising you that the decision maker Ms Driessen had decided not to disclose the document you requested as it contained deliberative information, which was exempt under s47C (deliberative process) of the FOI Act.

On the same day, via email to Finance, you sought an internal review of the decision dated 11 April 2016 and provided submissions for consideration.

Internal Review Decision

In accordance with subsection 23(1) of the FOI Act, I am authorised to make a decision regarding access under the FOI Act.

In making my decision, I have had regard to the following:

- the terms of your FOI request;
- Submission which you provided;
- the content of the documents that fall within the scope of your request;
- the relevant provisions of the FOI Act; and
- the FOI Guidelines issued by the Office of the Australian Information Commissioner (OAIC Guidelines).

Having considered your submission as well as a recent Australian Information Commissioner review decision. I have decided to vary the original decision made by Ms Driessen with a decision to disclose the document requested.

The Department did enter into a deliberative process in the preparation of the topic list for briefs for additional estimates in particular the Senate Finance and Public Administration legislation Committee held in February 2016. I am also of the view that information regarding each of the topics mentioned in the list may very well hold deliberative matter.

However having considered a recent decision of the Acting Australian Information Commissioner decision in *Penny Wong and Department of Prime Minister and Cabinet [2016] AICmr 6 (29 January 2016)*. I agree that the topic list does not contain deliberative matter, as it does not reveal an opinion, advice or recommendation and deliberations that have taken place in preparation of the list.

Taking into account all the factors set out above, I have determined that the document does not contain deliberative matter and is therefore not conditionally exempt under s47c of the FOI Act and can be released.

Charges

No charges were imposed for the processing of this request.

Review and appeal rights

You are entitled to request an internal review or a review by the Office of the Australian Information Commissioner (OAIC) of my decision. The process for review and appeal rights is set out at Attachment B.

Publication

The FOI Act requires Commonwealth agencies to publish:

- information in documents to which the agency routinely gives access in response to FOI requests except where that information is exempt under the FOI Act and
- information in documents release under the FOI Act.

Subject to certain exceptions, any documents provided to you under the FOI Act will be published on Finance's FOI Disclosure Log (www.finance.gov.au) as soon as possible. Finance's policy is to publish the documents within one working day after they are released to you.

Further Information

If you have any questions in regards to this request, please contact the FOI Team on the above contact details.

Yours sincerely,



Mary Balzary
First Assistant Secretary
Business Enabling Services
Department of Finance
16 May, 2016

ATTACHMENT A

SCHEDULE OF DOCUMENTS RELEVANT TO FOI REQUEST No. FOI 16/40

Document No.	Date of Document	No. of Pages	Author	Addressee	Description of Document	Decision
1	N/A	1	Finance	N/A	Subject list of briefs.	Full Release



Australian Government
Department of Finance

Freedom of Information – Your Review Rights

If you disagree with the decision made by the Department of Finance (Finance) under the *Freedom of Information Act 1982* (the FOI Act), you can ask for the decision to be reviewed. You may want to seek review if you sought certain documents and were not given full access, if you have been informed that there will be a charge for processing your request, if you have made a contention against the release of documents that has not been agreed to by the Department, or if your application to have your personal information amended was not accepted. There are two ways you can ask for review of a decision: internal review by Finance, or external review by the Australian Information Commissioner.

Internal Review

If Finance makes an FOI decision that you disagree with, you can ask Finance to review its decision. The review will be carried out by a different agency officer, usually someone at a more senior level. There is no charge for internal review.

You must apply within 30 days of being notified of the decision, unless Finance agrees to extend the application time. You should contact Finance if you wish to seek an extension.

Finance is required to make a review decision within 30 days. If Finance does not do so, the original decision is considered to be affirmed.

How to apply for internal review

You must apply in writing and should include a copy of the notice of the decision provided and the points you are objecting and why. You can lodge your application in writing through one of the contact details provided at the end of this document.

Review by the Australian Information Commissioner (IC)

The IC is an independent office holder who can review the decisions of agencies and ministers under the FOI Act. The IC can

review access refusal decisions (s 54L(2)(a) of the FOI Act), access grant

decisions (s 54M(2)(a)), refusals to extend the period for applying for internal review under s 54B (s 54L(2)(c)), and agency internal review decisions under s 54C (ss 54L(2)(b) and 54M(2)(b)).

If you are objecting to a decision to refuse access to documents, impose a charge or refuse to amend a document, you must apply to the IC within 60 days of being given notice of the decision. If you are objecting to a decision to grant access to another person, you must apply within 30 days of being notified of that decision.

Do I have to go through Finance's internal review process first?

No. You may apply directly to the IC. However, going through Finance's internal review process gives Finance the opportunity to reconsider its initial decision, and your needs may be met more quickly without undergoing an external review process.

Do I have to pay?

No. Review by the IC is currently free.

How do I apply?

You must apply for IC review in writing and you can lodge your application in one of the following ways:

Post: Office of the Australian Information Commissioner
GPO Box 2999
CANBERRA ACT 2601
Email: enquiries@oaic.gov.au
Fax: 02 9284 9666
In person: Level 3
175 Pitt Street
SYDNEY NSW 2000

An electronic application form is also available on the OAIC's website (www.oaic.gov.au). Your application should include a copy of the notice of the decision that you are objecting to (if one was provided), and your contact details. You should also set out why you are objecting to the decision.

Making a complaint

You may make a written complaint to the IC about actions taken by Finance in relation to your application. However, if you are complaining that a Finance decision is wrong, it is treated as an application for review. For further information, see [FOI fact sheet 13 – Freedom of Information: How to make a complaint](#).

When can I go to the Administrative Appeals Tribunal (AAT)?

Under the FOI Act, you must seek external review through the IC prior to applying to the AAT for such a review. The fee for lodging an AAT application is currently \$816 (from 1 July 2012), although there are exemptions for health care and pension concession card holders and the AAT can waive the fee on financial hardship grounds.

Investigation by the Ombudsman

The Commonwealth Ombudsman can also investigate complaints about action taken by

agencies under the FOI Act. However, if the issue complained about either could be or has been investigated by the IC, the Ombudsman will consult the Commissioner to avoid the same matter being investigated twice. If the Ombudsman decides not to investigate the complaint, then they are to transfer all relevant documents and information to the IC.

The IC can also transfer a complaint to the Ombudsman where appropriate. This could occur where the FOI complaint is only one part of a wider grievance about an agency's actions. It is unlikely that this will be common. You will be notified in writing if your complaint is transferred.

Applications to the Ombudsman should be directed to the following address:

Post: Commonwealth Ombudsman
PO Box 442
CANBERRA ACT 2601
Phone: 02 6276 0111
1300 362 072

Finance FOI contact details

FOI Coordinator
Legal Services Branch
Department of Finance
John Gorton Building
King Edward Terrace
PARKES ACT 2600
Phone: 02 6215 1783
Email: foi@finance.gov.au
Website: www.finance.gov.au/foi/foi.html