



20 April 2016

Mr James Smith
By email: foi+request-1863-c08695ad@righttoknow.org.au

Dear Mr Smith

Freedom of Information
FOI Reference number: 15/16-53

1. I refer to your email dated 18 April 2016 received by the Fair Work Commission (**the Commission**) on the same day, in which you requested access to documents under the *Freedom of Information Act 1982 (FOI Act)*.
2. I am authorised to make a decision in relation to your request pursuant to section 23 of the FOI Act.

Your Request

3. You requested access to the following documents:
 1. *Current social media policy of the department, which covers departmental use and/or private use by employees in an individual capacity.*
 2. *Any current guidance material which is available for employees to make informed decisions about their private social media use.*

Timeframe for Processing Request

4. Your request (complying with section 15) was received by the Commission on 18 April 2016. The statutory time frame for processing this request commenced on the day following the day on which your request was received (section 15(5)). The statutory time frame for processing your request expires on 18 May 2016.

Decision on access to documents

5. A search of the Commission's records was conducted and two documents relevant to your request were identified.
6. Having considered these documents, I have decided to grant access to these documents in full. The documents for release, as referred to in the Schedule of Documents at Attachment 1 are attached.

Rights of review

7. I have set out your rights to seek a review of my decision at Attachment 2.

8. Should you have any queries concerning this matter, please contact the Commission on (03) 8656 4544 or via email to foi@fwc.gov.au.

Yours Sincerely

Monika Holmwood
Freedom of Information Officer
Fair Work Commission

Attachment 1 - Schedule of Documents 15/16-53

Document number	Date	Description	FOI exemption	Decision
1.	Undated	Fair Work Commission Social Media Policy	Nil	Release in full
2.	Feb 2014	Guidance Note – Social Media Policy	Nil	Release in full

Attachment 2 - Rights of Review

If you are dissatisfied with my decision, you may apply for internal review or Information Commissioner review 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 Fair Work Commission 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.

If you choose to seek an internal review, you will subsequently have a right to apply to the Australian Information Commissioner for a review of the internal review decision.

An application for internal review of the decision should be addressed to:

Bernadette O'Neill
Fair Work Commission
GPO Box 1994
Melbourne VIC 3001

XXXXXXXXXXXX@XXX.XXX.XX

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 lodged in one of the following ways:

Online: <https://forms.business.gov.au/aba/oaic/foi-review/>
Email: enquiries@oaic.gov.au
Post: GPO Box 2999, Canberra ACT 2601
In person: Level 3, 175 Pitt Street, Sydney NSW

More information about Information Commissioner review is available on the Office of the Australian Information Commissioner website. Go to www.oaic.gov.au/freedom-of-information/foi-reviews.

Complaints to Ombudsman or Australian Information Commissioner

You may complain to either the Commonwealth Ombudsman or the Australian Information Commissioner about action taken by the Fair Work Commission in relation to your request. The Ombudsman will consult with the Australian Information Commissioner before investigating a complaint about the handling of an FOI request.

Your enquiries to the Ombudsman can be directed to:

Phone: 1300 362 072
Email: ombudsman@ombudsman.gov.au

Your enquiries to the Australian Information Commissioner can be directed to:

Phone: 1300 363 992

11 Exhibition Street Telephone: (03) 8656 4544
Melbourne VIC 3000 International: (613) 8656 4544
GPO Box 1994 Facsimile: (03) 9655 0401
Melbourne VIC 3001 Email: foi@fwc.gov.au

Email: enquiries@oaic.gov.au

There is no particular form required to make a complaint to the Ombudsman or the Australian Information Commissioner. The request should be in writing and should set out the grounds on which it is considered that the action taken in relation to the request should be investigated and identify the Fair Work Commission as the relevant agency.

Attachment 3 - Relevant Provisions of the FOI Act

11B Public interest exemptions—factors

Scope

- (1) This section applies for the purposes of working out whether access to a conditionally exempt document would, on balance, be contrary to the public interest under subsection 11A(5).
- (2) This section does not limit subsection 11A(5).

Factors favouring access

- (3) Factors favouring access to the document in the public interest include whether access to the document would do any of the following:
 - (a) promote the objects of this Act (including all the matters set out in sections 3 and 3A);
 - (b) inform debate on a matter of public importance;
 - (c) promote effective oversight of public expenditure;
 - (d) allow a person to access his or her own personal information.

Irrelevant factors

- (4) The following factors must not be taken into account in deciding whether access to the document would, on balance, be contrary to the public interest:
 - (a) access to the document could result in embarrassment to the Commonwealth Government, or cause a loss of confidence in the Commonwealth Government;
 - (aa) access to the document could result in embarrassment to the Government of Norfolk Island or cause a loss of confidence in the Government of Norfolk Island;
 - (b) access to the document could result in any person misinterpreting or misunderstanding the document;
 - (c) the author of the document 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.

Guidelines

- (5) In working out whether access to the document would, on balance, be contrary to the public interest, an agency or Minister must have regard to any guidelines issued by the Information Commissioner for the purposes of this subsection under section 93A.