

**From:** [Irene Nicolaou](#)  
**To:** [Caitlin Emery](#)  
**Subject:** FW: Right to know website and ATO [SEC=UNCLASSIFIED]  
**Date:** Tuesday, 13 September 2016 2:07:14 PM  
**Attachments:** [image001.png](#)

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**From:** Irene Nicolaou  
**Sent:** Monday, 29 August 2016 3:02 PM  
**To:** 'Galeotti, Julie' <xxxxx.xxxxxxx@xxx.xxx.xx>  
**Subject:** RE: Right to know website and ATO [SEC=UNCLASSIFIED]

Dear Julie

Thank you for providing this correspondence, it's much appreciated.

I confirm that OAIC had received this email.

If I need anything further I'll be in contact.

Kind regards

**Irene Nicolaou** | Assistant Investigation and Review Officer | Freedom of Information Dispute Resolution

**Office of the Australian Information Commissioner**

Level 3, 175 Pitt Street, SYDNEY NSW 2000

GPO Box 5128 SYDNEY NSW 2001 | [www.oaic.gov.au](http://www.oaic.gov.au)

Phone: +61 2 9284 9605 | E-mail: [xxxxx.xxxxxxx@xxx.xxx.xx](mailto:xxxxx.xxxxxxx@xxx.xxx.xx)

*Protecting information rights – advancing information policy*



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**From:** Galeotti, Julie [<mailto:xxxxx.xxxxxxx@xxx.xxx.xx>]  
**Sent:** Monday, 29 August 2016 2:43 PM  
**To:** Irene Nicolaou <[xxxxx.xxxxxxx@xxx.xxx.xx](mailto:xxxxx.xxxxxxx@xxx.xxx.xx)>  
**Subject:** Right to know website and ATO [SEC=UNCLASSIFIED]

Dear Irene,

As discussed today, below is a copy of the email Jonathan Todd sent to the OAIC on 22 July 2016 advising of our position regarding the Right to Know website. I don't know if there has been any further communication with the OAIC on this topic.

Regards,

**Julie Galeotti**

Senior Legal Adviser, General Counsel  
Australian Taxation Office  
P 03 9285 1810

Think digital before you print

**From:** Todd, Jonathan  
**Sent:** Friday, 22 July 2016 3:20 PM  
**To:** [xxxxxxxx@xxx.xxx.xx](mailto:xxxxxxxx@xxx.xxx.xx)  
**Subject:** ATO dealings with Righttoknow website [SEC=UNCLASSIFIED]

Dear Sir/Madam

I write to advise how ATO General Counsel now intends to respond to FOI requests received via the 'Right to Know' website ([www.righttoknow.org.au](http://www.righttoknow.org.au), 'RTK').

ATO General Counsel's response will be taken to fulfil the ATO's responsibilities under s 19 of the *Work, Health and Safety Act 2011* (Cth).

There has been a recent case where abusive material has been placed on the RTK website addressed at ATO officers named on the web page in preceding correspondence about an FOI request. The website administrators have failed to remove or redact the unacceptable content and denied responsibility for the material even though they are the publishers as website administrators.

The ATO is required to address the damage and the risks to staff health and welfare arising from this by taking reasonable steps to eliminate or minimise the risks.

As you are probably aware, the RTK website provides an internet platform for making FOI requests to Australian government organisations.

To utilise the platform users must:  
register for an account (providing details to RTK),  
type the request into the RTK website, together with other details such as the department the request is being made to

The RTK website then sends an email (with a specially generated email address consisting of a number code and RTK reference, eg [xxxxxxxx@xxxxxxxxxxx.xxx.xx](mailto:xxxxxxxx@xxxxxxxxxxx.xxx.xx) ) to the ATO's FOI inbox, [xxx@xxx.xxx.xx](mailto:xxx@xxx.xxx.xx).

The only way the ATO can respond to the email is via the RTK website. All email correspondence to and from the RTK website from an applicant and the ATO is automatically published on the website without any intervention.

The administrators of the RTK website are themselves very difficult to contact. It appears that the website is essentially run on a part time and volunteer basis. No telephone numbers or business/service addresses are provided and the administrators can only be contacted via email. In our experience, email responses are very slow, often taking several days.

In the case we are concerned about, the ATO would probably not be successful in obtaining a court injunction to remove the offending material on the grounds it was defamatory, or threatening in a criminal sense. However, s 19 of the WHS Act imposes a lower standard in terms of the ATO's responsibilities as an employer.

We are on notice of a matter that has caused harm to the health and welfare of ATO officers in the form of stress, anxiety and public damage to professional reputation. Under ss 17 & 18 of the WHS Act the ATO is required to take reasonable steps to eliminate or minimise that risk, in order to continue to provide the ATO's primary duty of care under s 19.

The ATO now intends to deal with FOI requests received via the RTK website as follows:

When requests come in from the RTK website, the ATO will send an email response from [xxx@xxx.xxx.xx](mailto:xxx@xxx.xxx.xx) without staff names, along the lines of *'The ATO does not process FOI requests received via the RTK website. Please send your FOI request direct to @....., or lodge via paper form'*. Website links and general phone number contacts will also be provided.

The ATO's response will not prevent applications being made anonymously. Obtaining an anonymous email address from an email provider is easier, quicker and requires the provision of less personal information to a third party than obtaining an account at the RTK website.

We cannot address the WHS risks on a case by case basis. All correspondence to the RTK website is automatically published, including staff names. Unacceptable material can be added to the web page after the staff names have already been published. We have no satisfactory means of removing unacceptable material promptly, or at all.

There have also been several instances where misguided applicants have requested and/or obtained their own private material via RTK from government departments. The applications themselves constituted breaches of the applicants' privacy even though self-inflicted.

The major contributing factor to these misguided private applications is the failure to adequately warn applicants about making private applications on the RTK website and the lack of human intervention in the website's processes. These private applications generate unnecessary extra work for the ATO and other government departments in seeking to have those applications removed and otherwise dealt with.

From the ATO's perspective the RTK website adds no value to what we already do. FOI applicants are already able to make FOI requests by email or electronic form via the ATO website, anonymously if desired. All general 'public' material provided to applicants (that is not personal, private, subject to tax secrecy, commercial-in-confidence, etc.), is already published on the ATO disclosure log on the ATO website where it is accessible by anyone.

The publication of all the 'procedural' correspondence about the FOI request serves no useful purpose, it merely clutters the internet with information which is of no interest to anyone, and makes finding the material disclosed in response to the request more difficult than it is on the ATO's website. In short, the RTK website publication of procedural correspondence about FOI requests exposes ATO staff to unnecessary risks for no benefit.

If you would like to discuss this any further, please ring me on the number below.

Regards,

**Jonathan Todd**

ATO General Counsel | Assistant Commissioner, ATOC

Australian Taxation Office

P 02 937 48303 [REDACTED] F 02 937 42277

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**From:** [Rocelle Ago](#)  
**To:** [Hulbert, Catherine](#)  
**Subject:** Re: ATO dealings with Righttoknow website [SEC=UNCLASSIFIED]  
**Attachments:** [image001.png](#)

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Dear Catherine

Thank you for your email.

We have not as yet sent a response to Mr Todd's email. I apologise for the delay, however, I note that Mr Todd's email raises some issues that have needed to be escalated to the Assistant Commissioner.

Kind regards

**Rocelle Ago** | Director | Freedom of Information Dispute Resolution  
**Office of the Australian Information Commissioner**  
Level 3, [175 Pitt Street, SYDNEY NSW 2000](#)  
GPO [Box 5128 SYDNEY NSW 2001](#) | [www.oaic.gov.au](http://www.oaic.gov.au)  
Phone: [+61 2 9284 9621](tel:+61292849621) | E-mail: [xxxxxxx.xxx@xxxx.xxx.xx](mailto:xxxxxxx.xxx@xxxx.xxx.xx)

On 19 Aug 2016, at 9:34 AM, Hulbert, Catherine <[xxxxxxxxx.xxxxxxx@xxx.xxx.xx](mailto:xxxxxxxxx.xxxxxxx@xxx.xxx.xx)> wrote:

Dear Rocelle

In light of the email issues experienced between our offices in July and early August, I wanted to confirm whether your office had replied to our email below? I note we did not necessarily expect a response, however if one had been sent, it has not been received. Could you please confirm the status of any response?

Kind regards

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**Catherine Hulbert**

Senior Principal Lawyer, General Counsel, ATOC  
Australian Taxation Office  
P 02 9374 8845  
Part time Wednesday - Friday

<image001.png>

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**Sent:** Friday, 22 July 2016 3:20 PM  
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ATO General Counsel | Assistant Commissioner, ATOC  
Australian Taxation Office

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