



Our reference: FOIREQ16/00051

Dear Ms Pane,

## Outcome of your Freedom of Information request

I refer to your request for access to documents under the *Freedom of Information Act 1982* (Cth) (the FOI Act).

### Background

On 25 November 2016, you made an FOI request through the [www.righttoknow.org.au](http://www.righttoknow.org.au) website requesting reports from our case management system covering a range of matters. I note your FOI request indicates that you are interested in information about how long our currently matters have been open. You are also interested in understanding how long processes within the OAIC take in relation to privacy complaints and IC Reviews.

Our case management system does not provide a breakdown of each process within a matter by timeframe, so this information cannot be reported. However, in response to your FOI request we provide the following reports with this letter for privacy complaints and IC reviews:

1. The age of currently open matters (for IC reviews as at 13/12/2016 and for privacy complaints as of 21/12/2016);
2. The number of days and the outcome of matters closed in each financial year from 2012-13 to 2015-2016 as well as for this financial year up to 12 December 2016.

These documents are the OAIC's full response to this FOI request. Please contact me if you have any questions in relation to these documents.

If you wish to lodge a new FOI request for further documents, please send it to [foi@oaic.gov.au](mailto:foi@oaic.gov.au).

### My decision

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

I have provided documents containing information in discrete form which has been retrieved from the OAIC's case management system. While the documents were not in existence when your request was made they are now provided as reports run from the OAIC's case management system pursuant to section 17 of the FOI Act.

I have had created 12 documents falling within the scope of your request.

I have decided to give you access to all 12 documents in part (the documents). In making my decision, I have relied on the personal information exemption in the FOI Act.

The documents are edited under s 22 of the FOI Act to delete exempt material. The edited copy, along with a detailed schedule is attached to this email.

I have set out my reasons for this decision below.

## **Reasons for decision**

### ***Provision of an edited copy of exempt document with exempt and irrelevant material deleted – section 22***

Section 22 of the FOI Act provides that where an agency decides that it is possible for the agency to prepare an edited copy of a document, modified by deletions to remove exempt and irrelevant material, and it is reasonably practicable to do so, the agency must prepare the edited copy and give the applicant access to the edited copy.

As I have discussed above, I have decided to prepare and give you access to an edited copy of each of the 12 documents that are within the scope of your request with exempt and irrelevant material deleted.

### ***Conditional exemption – personal information***

The FOI Act contains a number of exemptions known as ‘conditional exemptions’. If a document falls within a conditional exemption, the OAIC must give you access to the document unless doing so at this time would, on balance, be contrary to the public interest (s 11A(5)).

Section 47F of the FOI Act provides that a document is conditionally exempt if its disclosure would involve the unreasonable disclosure of personal information about any person.

The documents contain individual case numbers which could, if combined with other available information or if already known, identify individual privacy complainants and IC review applicants. If disclosed the case numbers would involve the unreasonable disclosure of personal information of complainants and applicants to the OAIC.

For this reason, I am satisfied that disclosing OAIC case numbers would unreasonably disclose personal information, and that the relevant documents are conditionally exempt under section 47F of the FOI Act.

### ***The public interest test***

In finding that the documents contains conditionally exempt material, I am therefore required to consider whether it would be contrary to the public interest to give you access to a conditionally exempt document at this time (s 11A(5)).

Section 11A(5) provides that the OAIC must give you access to a conditionally exempt document unless (in the circumstances) access to the document at that time of my decision would, on balance, be contrary to the public interest.

In assessing whether the disclosure of a document would be contrary to the public interest, I must balance any public interest factors for and against disclosure.

Of the public interest factors favouring disclosure listed in s 11B(3) of the FOI Act, two are relevant in this decision. Disclosure would:

- promote the objects of the FOI Act, including increasing scrutiny, discussion, comment and review of the government's activities, and
- inform debate on a matter of public importance

Factors against disclosure include the disclosure could reasonably be expected to prejudice the protection of an individual's right to privacy.

In this case, I am satisfied that the public interest factor against disclosure should be given substantial weight. The public interest is against disclosure.

Giving you access to the material that I have decided is conditionally exempt would, on balance, be contrary to the public interest.

## **If you disagree with my decision**

### ***Internal review***

You have the right to apply for an internal review of my decision under Part VI of the Act. If you wish to apply for an internal review, you must do so in writing within 30 days. There is no application fee for internal review.

If you wish to apply for an internal review, please mark your application for the attention of the FOI Coordinator and state the grounds on which you consider that my decision should be reviewed.

### ***Further Review***

You may apply to the Information Commissioner for a review of my decision (IC review). If you wish to apply for IC review, you must do so in writing within 60 days. Your application must provide an address (including an email address or fax number) that we can send notices to, and include a copy of this letter. A request for IC review can be made in relation to my decision, or an internal review decision.

It is the Information Commissioner's view that it will usually not be in the interests of the administration of the Act to conduct an IC review of a decision, or an internal review decision, made by the agency that the Information Commissioner heads: the OAIC. For this reason, if you make an application for IC review of my decision, it is likely that the Information Commissioner

will decide (under section 54W(b) of the Act) not to undertake an IC review on the basis that it is desirable that my decision be considered by the Administrative Appeals Tribunal (AAT).

Section 57A of the FOI Act provides that, before you can apply to the AAT for review of an FOI decision, you must first have applied for IC review.

Applications for internal review or IC review can be submitted to:

Office of the Australian Information Commissioner  
GPO Box 5218  
SYDNEY NSW 2001

Email: [foi@oaic.gov.au](mailto:foi@oaic.gov.au)

Fax: 02 9284 9666

Yours sincerely

Amanda Nowland  
Dispute Resolution Branch  
23 December 2016