



Australian Government
Civil Aviation Safety Authority

LEGAL AFFAIRS, REGULATORY POLICY
AND INTERNATIONAL STRATEGY

TRIM Ref: F16/5732

22 December 2016

Mr Rob Cumming

By email: Rob Cumming foi+request-2788-7523e656@righttoknow.org.au

Dear Mr Cumming,

ACCESS TO DOCUMENTS UNDER THE *FREEDOM OF INFORMATION ACT 1982*

I refer to your email dated 28 November 2016 seeking access to the following documents under the *Freedom of Information Act 1982* (Cth) (the Act):

All documents what-so-ever including but not limited to:

- Correspondence;
- File Notes;
- Meeting Notes;
- Internal Memo's;
- Diary/ calendar entries;
- Telephone records;
- All data electronically collected, being by mobile phone, Dictaphone, tape recorder or mp3/4 recorder or other means · E-mails; All database entries including entries into Sky Sentinel, TRIM and AIRS; · Images; Individual FOI [Flight Operation Inspector], AWI comments and resulting documentation; All supervisory staff records relating to the matter; If referred to the CASA Board, all related Board minutes, discussions and recommendations made to advise CASA as to direction for the Board in relation to this.

In relation to:

Civil Aviation Order 100.5 (General requirements in respect of maintenance of Australian aircraft) 2011 (as amended) and

Project MS 08/20 - Amendment of CAO 100.5 to include mandatory maintenance requirements currently promulgated in Australian unique ADs.

On 28 November 2016, by email you advised CASA officer Adam Anastasi that you required information regarding the 2013 series of amendments that were made to Civil Aviation Order 100.5. On 7 December 2016, I advised you that a practical refusal reason existed in relation to your request as the work involved in processing your request in its current form would substantially and unreasonably divert the resources of this agency from its other operations

due to its size and broad scope. Searches relating to your request identified in excess of 700 pages that would need to be examined for more than 2 weeks.

In an email dated 19 December 2016, you amended your request, to only be seeking access to communications between drafting officers and CASA in drafting the CAO amendments.

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

I have identified 96 email chains (some with attachments) between 24 October 2012 and 25 November 2013 which fall within the scope of your request. The emails are between CASA officers and CASA legislative counsel.

Exemption - legal professional privilege

Section 42 of the Act provides that a document is an exempt document if it is of such a nature that it would be privileged from production in legal proceedings on the ground of legal professional privilege.

Relevantly, the privilege protects confidential communications between a client and his or her lawyer that are made for the purposes of seeking or being provided with legal advice.

The 96 email chains within scope would be privileged from production in legal proceedings on the ground of legal professional privilege. As noted above, the emails are to and from CASA legislative counsel. Such officers are employed by CASA in its Legal Affairs, Regulatory Policy and International Strategy Branch and provide professional legal services in the form of drafting legislative instruments. Such persons are engaged by CASA as legal practitioners.

The emails are from CASA officers seeking legal services, namely preparation of CAO 100.5 amendments, which are legislative instruments. The emails from LARPIS legislative counsel provide advice about, and drafts of, such amendments. Accordingly, I have made a decision that these emails are exempt documents.

Documents released

I have decided to exempt the documents in full. The documents will not be provided to you.

Application for internal review of decision

Section 54 of the Act gives you the right to apply for an internal review of my decision. An application for internal review of my decision must be made in writing within 30 days of receipt of this letter.

No particular form is required, but it is desirable to set out in the application the grounds on which you consider that the decision should be reviewed. An application for review should be addressed to Freedom of Information at the address below:

Freedom of Information
Legal Services Division
Civil Aviation Safety Authority
GPO Box 2005
Canberra ACT 2601

Review by the Australian Information Commissioner

Alternatively, under section 54L of the 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: <http://www.oaic.gov.au/freedom-of-information/requesting-a-review>
email: enquiries@oaic.gov.au
post: GPO Box 2999, Canberra ACT 2601
in person: Level 3, 175 Pitt Street, Sydney NSW
phone: 1300 363 992

Yours sincerely,



David Gobbitt
A/g Freedom of Information Coordinator
Legal Affairs, Regulatory Policy and International Strategy Branch

Email address: david.gobbitt@casa.gov.au