



Australian Government
Department of Finance and Deregulation

Reference: FOI 13/66
Contact: FOI Team
Telephone: (02) 6215 1783
e-mail: foi@finance.gov.au

Margo Kingston

via email: foi+request-296-5ab58051@righttoknow.org.au

Dear Ms Kingston

Freedom of Information Request – FOI 13/66

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

Summary report of entitlements expenses and reimbursements paid by the Department of Finance on behalf of Tony Abbott which were incurred during the period 30 July to 14 August 2009.

All records of certification made by Tony Abbott for expenses which were incurred for the period 30 July to 14 August 2009.

The monthly management reports for Tony Abbott for the months of July, August, and September 2009.

Summary report of Tony Abbott's booking of COMCAR and other car transport for the period 30 July to 14 August 2009.

The purpose of this letter is to provide you with notice of my decision under the FOI Act.

Decision

I am authorised by the Secretary under subsection 23(1) of the FOI Act to grant or deny access to documents under the FOI Act.

There are six documents within the scope of your request. I have decided to:

- release one document in full; and
- release five documents in part, with material redacted, on the basis of the exemption of personal information (section 47F) and irrelevant matter (section 22).

The documents are identified in the Schedule at [Attachment A](#).

Reasons for Decision

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

- the terms of your FOI request;
- the content of the documents that fall within the scope of your request;
- the relevant provisions of the FOI Act;
- consultations with third parties in accordance with the FOI Act and submissions made by those third parties; and
- the Guidelines issued by the Office of the Australian Information Commissioner (OAIC) under s 93A of the *Freedom of Information Act 1982* (FOI Guidelines).

Appeal Rights

My decision relating to document access is set out below. As a preliminary matter, a third party has objected to the release of all of the documents. The affected third party has contended that documents contain personal information that would be unreasonable to disclose and objected to release of the documents.

I am required, in accordance with subsection 27A(5) of the FOI Act, to advise the third party of my decision to release the documents. The affected third party has the opportunity to seek a review of the decision either by Finance or the OAIC. The third party has 30 days in which to seek review or lodge an appeal.

The documents that I have decided to release cannot be provided to you until the time period for lodging a review has expired, and the outcome of the review is known. However, if the third party lodges an internal review or appeal to the OAIC, documents cannot be provided to you until that review or appeal has been completed.

Section 22 – Access to edited copies with exempt or irrelevant matter deleted

Section 22 of the FOI Act allows for the deletion of exempt or irrelevant matter from a document that may allow for an edited form of the document to be released. I have decided that edited copies of five documents can be released to you under this category. In particular, I have decided to provide you with access to one document with exempt information redacted and four documents with exempt and irrelevant information redacted.

Irrelevant Material

The redacted information within the documents contains material that is irrelevant to your request. Specifically, the signature of an employee and the name of an employee in handwritten notes, names of staff members and their AGS numbers and names of family members are considered irrelevant to your request.

Exempt Material

The redacted information within the documents contains material that I have determined to be exempt under section 47F of the FOI Act (personal privacy).

Section 47F – Personal Privacy

Section 47F of the FOI Act states that:

47F (1) A document is conditionally exempt if its disclosure under this Act would involve the unreasonable disclosure of personal information about any person ...

I have decided that release of the relevant documents, identified in at Attachment A, would involve the unreasonable disclosure of personal information for the following reasons.

Is it personal information?

For information to be conditionally exempt, I must first be satisfied that the information is personal information. If the documents are one to which personal information applies, I must then address the issue of whether it would be unreasonable to disclose the personal information.

Section 4 of the FOI Act provides a definition of ‘personal information’. It is defined as:

‘...information or an opinion (including information forming part of a database), whether true or not, and whether recorded in a material form or not, about an individual whose identity is apparent, or can reasonably be ascertained, from the information or opinion’.

The material that has been redacted from the documents includes staff and family member personal details such as names, AGS numbers, work locations, suburbs of residence, as well as private plated vehicle registration numbers and telephone account numbers which clearly identify the third parties and therefore is personal information for the purposes of the definition in the FOI Act and conditionally exempt under section 47F (personal information).

Is disclosure unreasonable?

Subsection 47F(2) of the FOI Act provides that in determining whether the disclosure of a document would involve the unreasonable disclosure of personal information, an agency must have regard to the following:

- the nature of the information;
- the extent to which the information is well known;
- whether the person to whom the information relates is known to be (or to have been) associated with the matters dealt with in the document;
- the availability of the information from publicly accessible sources; and
- any other matters that the agency considers relevant.

The nature of the information in the documents are the personal details specified could reasonably be expected to prejudice the individual's right to privacy and could place stress on the individuals concerned. The relevant information in the documents is not well known or available from public sources.

The nature of the telephone account number is a sensitive category of personal information. The account number was given in a context in which there was a reasonable expectation of privacy. This information is not publicly known and was collected for the purpose of accurately calculating costs incurred which may have had the expectation that it would not be released.

In my view, disclosure of the registration number of the third party vehicle and the refuelling locations of the vehicle are not readily available from public sources and raise security concerns for the persons driving the vehicle.

Having taken these matters into consideration, I am satisfied that the documents identified at Attachment A contain matter that would involve the unreasonable disclosure of personal information.

Public Interest Test – sections 47F

Having formed the view that the documents are conditionally exempt under section 47F, I am now required to consider whether disclosure of the documents would be contrary to the public interest.

In accordance with section 11B(3) of the FOI Act, I have considered the following factors favouring disclosure of the documents.

Release of the documents would promote the objects of the Act: in considering that this is a relevant public interest consideration, I note that the release of the document(s) would give the Australian community access to information held by the Commonwealth that would not otherwise be readily accessible and would increase recognition that information held by the Government is a national resource sections 3(1) and 3(3) of the FOI Act. However, I do not believe that release of the relevant information would contribute towards the other objects of the FOI Act.

Release would inform debate on a matter of public importance: The use and administration of publicly funded entitlements is a matter of public importance. However, I do not believe that release of the documents with the personal information included would significantly inform public debate on this matter. Release of this information would not inform the public debate to a greater degree than the release of the documents without this information.

Release would promote effective oversight of public expenditure: Entitlements by Members of Parliament are funded by tax payers and the release of documents could promote effective oversight of public expenditure. However, releasing the personal information contained within the documents would not further promote this objective.

I have also considered the following factors against disclosure of the documents:

Release could reasonably be expected to prejudice the protection of an individual's right to privacy: the right to privacy is a strong consideration and compelling reasons need to exist in order to override that right. The information identified in the five documents, identifies personal details of staff and the family members of a third party. I consider that the release of this information could reasonably be expected to prejudice the individual's right to privacy and could place stress on the individuals concerned. The reasons that the information was given to Finance was for the purposes of administering the parliamentary entitlements of Mr Abbott.

I also note that the telephone number is a sensitive category of personal information. The information contained in the document was given in a context in which there was a reasonable expectation of privacy. This information is not publicly known and was collected for the purpose of accurately calculating costs incurred which may have had the expectation that it would not be released.

In relation to the disclosure of the registration number of the third party vehicle and the location of fuel purchases, I am of the view that the information is not publically known, and its disclosure would raise security concerns for the persons driving the vehicle.

Given consideration of the matters above, I consider that release of the relevant information would prejudice the protection of the relevant individual's right to privacy.

In the circumstances, I have determined that the factors against disclosure outweigh the factors in favour of disclosure in relation to the relevant parts of the document. I consider the information redacted at Attachment A to be exempt from release on the basis of section 47F (personal information) of the FOI Act.

Charges

On 25 July 2013, Finance sent you an estimate of charges (\$547.31) in relation to the processing of your request. I have reviewed the estimate of charges provided to you and confirm that the estimated cost is a true account of the actual time spent on your request.

Finance has received your deposit (\$136.83). Documents will not be released until the full charge has been paid. Once the full charges have been paid, and when any review or appeal rights have expired, the documents will then be released to you.

Review and Appeal Rights

You are entitled to request an internal review of my decision. Your appeal rights are enclosed with this letter.

Publication

The FOI Act requires Commonwealth agencies to publish information in documents released 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 after they are released to you, usually 1 – 3 working days.

Further Assistance

If you have any questions, please contact the Finance FOI Team on the contact details indicated above.

Yours sincerely



Cheryl-anne Moy
Acting First Assistant Secretary
Ministerial & Parliamentary Services Division

19. September 2013

SCHEDULE OF DOCUMENTS RELEVANT TO FOI REQUEST No. 13/66

Documents will not be released until third party review rights have expired						
Document No.	Date of Document	No. of Pages	Author	Addressee	Document Description	Decision* Comment
1	09/08/2013	4	Finance	N/A	Summary report of expenses incurred by Mr Abbott for period 30 July to 14 August 2009.	D E (47F) Personal Information - mobile phone number, telephone account number and vehicle registration redacted under s47F
2	N/A	3	Office of the Hon Tony Abbott MP	Finance	Records of Certification from Mr Abbott for period 30 July to 14 August 2009.	D E (22) Matter outside scope of request - signature of an employee and the name of an employee redacted under s 22 not relevant to request
3	July 2009	30	Finance	The Hon Tony Abbott MP	July 2009 Monthly Management Report	D E (22, 47F) Matter outside scope of request - names of family members, names of staff members and their AGS numbers Personal Information - registration numbers, staff and family home bases, lease number/client code of vehicle, location of petrol fill ups
4	August 2009	32	Finance	The Hon Tony Abbott MP	August 2009 Monthly Management Report	D E (22, 47F) Matter outside scope of request - names of family members, names of staff members and their AGS numbers Personal Information - registration numbers, staff and family home bases, lease number/client code of vehicle, location of petrol fill ups
5	September 2009	35	Finance	The Hon Tony Abbott MP	September 2009 Monthly Management Report	D E (22, 47F) Matter outside scope of request - names of family members, names of staff members and their AGS numbers Personal Information - registration numbers, staff and family home bases, lease number/client code of vehicle, location of petrol fill ups
6	N/A	1	Finance	N/A	Summary COMCAR report for period 30 July to 14 August 2009.	R Released in full.



Freedom of Information – Your Review Rights

If you disagree with the decision made by the Department of Finance and Deregulation (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 \$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 and Deregulation
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.htm