



**Australian Government**

**Department of Communications and the Arts**

Anon  
Right to Know  
([foi+request-2989-be194f3b@righttoknow.org.au](mailto:foi+request-2989-be194f3b@righttoknow.org.au))

Dear Applicant

**FREEDOM OF INFORMATION REQUEST 20-1617**

**STATEMENT OF REASONS**

1. I refer to your request dated 27 January 2017 under section 15 of the *Freedom of Information Act 1982* (FOI Act) seeking access to:

*“... total monies paid by the Department of Communications and the Arts (or its predecessors) (the Department) to Richard Cobden SC in respect of his provision of legal advice to the Department in the three years prior to the day that Angela Flannery commenced her employment at the Department (some time in 2013 I believe);*

*- total monies paid or otherwise owing by the Department to Richard Cobden SC in respect of his provision of legal advice to the Department from the day Angela Flannery commenced her employment at the Department to the date of this application; and*

*- total monies paid or otherwise owing by the Department to senior lawyers who have been awarded the title of Senior Counsel (post-nominal: 'SC') or Queen's Counsel ('QC') in respect of their provision of legal advice to the Department from the day Angela Flannery commenced her employment at the Department to the date of this application.”*

2. On 10 February 2017, the Department acknowledged your request and on 21 February 2017 provided notice to you of my intention to refuse to process your request on the basis that processing your request would substantially and unreasonably, divert the resources of the Department from its other operations; and did not satisfy the requirements of paragraph 15(2)(b) of the FOI Act.
3. The notice invited you to consult with the Department to refine the scope of your request and also informed you that the FOI Act does not require the Department to create new documents containing the information sought and that information about the Department's procurement of external legal services (above the contract threshold of \$10,000) and amounts paid to Mr. Richard Cobden, SC, and other specific legal service providers, is publicly accessible (at no charge) on the Australian Government's AusTender website (<https://www.tenders.gov.au>).
4. On 21 January 2017, the Department received your email advising that you wished to revise the scope of your request to:

*“...- total monies paid by the Department of Communications and the Arts (or its predecessors) (the Department) to Richard Cobden SC in respect of his provision of legal*

*advice to the Department in the three years prior to the day that Angela Flannery commenced her employment at the Department (some time in 2013 I believe); and*

*- total monies paid or otherwise owing by the Department to Richard Cobden SC in respect of his provision of legal advice to the Department from the day Angela Flannery commenced her employment at the Department to the date of this application (27/1/17)..."*

5. On 27 February 2017, the Department advised that the decision making time was extended by thirty days for third-party consultation. As noted in the Department's email of 10 January 2017, the name of government officials not in the Senior Executive Service have been excluded from the scope of your request.

#### **B. DECISION**

6. Whilst the Department was not required to create a new document containing the information sought, I have been provided with a copy of a report generated from the Department's electronic financial management system in order to respond to your request.
7. That document is attached to this Statement of Reasons at Attachment A.
8. I have decided to grant access in part to the document with exempt material under section 47F deleted, and any irrelevant material deleted under section 22.
9. I am satisfied that an edited copy of this document is able to be given under section 11A of the FOI Act. I have therefore decided to provide access to edited copies of those documents.

#### **C. MATERIAL ON WHICH MY DECISION IS BASED**

10. I have taken the following material into account in making my decision:
  - a. your request;
  - b. the content of the document within the scope of your request;
  - c. the FOI Act; and
  - d. the Guidelines issued by the Office of the Australian Information Commissioner under section 93A of the FOI Act ('FOI Guidelines').

#### **D. REASONS FOR DECISION**

11. Where, as outlined in paragraph 8 above, an exemption applies to the document, my reasons for deciding that the exemption applies are set out below.

##### Public Interest Conditional Exemption – Section 47F – Personal privacy

12. I find that section 47F of the FOI Act applies to limited parts of the document to the extent that disclosure of Mr Cobden's address would involve the unreasonable disclosure of personal information about him.
13. Section 47F of the FOI Act is a conditional exemption provision and, in applying the exemption, I have considered whether:

- a. the document within the scope of the request contains personal information, as defined for the purposes of the FOI Act, about a person;
- b. disclosure of those documents would involve the unreasonable disclosure of that personal information.

#### *Personal information*

14. Section 4 of the FOI Act provides that 'personal information' has the same meaning as in the *Privacy Act 1988*. In turn, section 6 of the Privacy Act provides that personal information means information or an opinion about an identified individual, or an individual who is reasonably identifiable.
15. The personal information in the document above comprises the address for Mr. Richard Cobden. Accordingly, I find that the documents listed above contain personal information about a natural person.

#### *Unreasonable Disclosure of Personal information*

16. In my view, releasing the personal information would involve the unreasonable disclosure of Mr Cobden's personal information. No readily apparent public purpose would be achieved through the release of this information and it would not enhance the usefulness of the documents sought. Also, I consider that release of the personal information would not shed light on the workings of government.
17. Weighing up all factors, I have concluded that the release of Mr. Cobden's address in the document would be both an unreasonable disclosure of personal information and contrary to the public interest. Such information has, therefore, been exempted, having regard to section 47F and 11(A)(5) of the FOI Act.

#### *Balancing the public interest*

18. Taking into account the above considerations, I attach less weight to the factors favouring release than to the factors against release. On balance, I consider that it would be contrary to the public interest to disclose the personal information within the document under subsection 11A(5) of the FOI Act.

#### **E. REVIEW RIGHTS**

19. If you are dissatisfied with this decision, you may apply for internal review under section 54 of the FOI Act or Information Commissioner review under section 54L of the FOI Act. I have attached for information the Office of the Australian Information Commissioner's FOI *Fact Sheet 12 – Your review rights*.

#### **F. INFORMATION PUBLICATION SCHEME**

20. In accordance with section 11C of the FOI Act, where the Department gives access to a document under section 11A of the FOI Act, the Department must publish the information contained in that document on its website within 10 working days.

21. Please see [www.oaic.gov.au](http://www.oaic.gov.au) for more information about the Information Publication Scheme.

Yours sincerely

A handwritten signature in cursive script that reads "Shireen Sekhon". The signature is written in black ink and is positioned above the typed name.

Shireen Sekhon  
Legal Director,  
Office of the General Counsel  
28 March 2017

s22(1)(a)(ii)

Dept Vendor Invoices

Dept Vendor Invoices  
s22(1)(a)(ii)  
Communications - Dept  
CANBERRA

List of Vendor Line Items

s22(1)(a)(ii)  
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Reference	Type	DocumentNo	Doc Date	Item	PBk	PM	Sl line Date	Day1	Due on	Amount in LC	Text	Clring doc	Clearing
Vendor	s22(1)(a)(ii)	CoCode	1000Acctg	DIRK							Richard Cobden		
			Name	s22(1)(a)(ii) and s47F(1)									
			Street										
			Post Code										
			City										
			Region										
			Country										
s22(1)(a)(ii)			17.09.2015	1	T		30.09.2015	30	30.10.2015	12,797.50-	s22(1)(a)(ii)		
			25.05.2016	1	T		03.06.2016	30	03.07.2016	22,982.50-			
*										35,759.06-			