



Statement of reasons made under the *Freedom of Information Act 1982*

Decision and reason for decision of Frank White, Assistant Director, Information Law,
Legal Services & Assurance

Applicant: Mr James Smith

Decision date: 20 March 2017

FOI reference number: FOI 14022

Dear Mr Smith

Freedom of Information Request: FOI 14022

1. I have made a decision to grant access to the documents falling within the scope of your request in full.

Summary

2. I, Frank White, Assistant Director, Information Law, Legal Services & Assurance, am an officer authorised by the Secretary of the Department of Veterans' Affairs (the Department) to make decisions about access to documents in the possession of the Department in accordance with section 23(1) of the *Freedom of Information Act 1982* (the FOI Act).

3. On 16 February 2017 you made a request for access to documents in the possession of the Department. Your request sought access to:

I request the document(s) which describe the data provided to the external organisation(s) responsible for conducting the ballot(s) for all Enterprise Agreements put to staff for a vote.

The scope of this request is limited only to those ballots undertaken for enterprise agreements which were proposed to take effect after 30 June 2014.

The document shall describe the data given to the ballot agent. For example, employee name, employee identification number, employee email address, etc. I exclude the data for specific employees here; I am only after the 'meta-data'.

4. I have decided not to impose a charge in relation to this request, in accordance with regulation 3(1) of the *Freedom of Information (Charges) Regulations 1982*.
5. The Department has undertaken a reasonable search of its records and has identified two (2) documents that meet the scope of your request, as set out above. The documents relevant to your request are listed at Schedule 1.

Decision and Reasons for Decision

6. I have made a decision to grant access to the documents that fall within the scope of your request in full. The documents that I have chosen to release under the FOI Act are set out in Schedule 1.

Material taken into account

7. I have taken the following material into account in making my decision:
- the content of the documents that fall within the scope of your request;
 - details provided in the scope of your FOI request that you are seeking meta-data only;
 - Sections 3, 11 and 11A of the FOI Act which give the Australian community a legally enforceable right to obtain access to information held by the Government of the Commonwealth.
 - the Guidelines issued by the Australian Information Commissioner under section 93A of the FOI Act (FOI Guidelines).
8. A full extract of all FOI Act provisions used to make my decision are provided in Schedule 2.

Access to documents

9. The documents released to you in accordance with the FOI Act are enclosed.

Information Publication Scheme

10. On 1 May 2011, the Information Publication Scheme commenced. The Department is now required under section 11C of the Act to publish information released in response to individual requests made under the Act, except in specified circumstances. This applies to requests received on or after 1 May 2011 and as such details of your request will be published by the Department on its disclosure log, which can be accessed at:

<http://www.dva.gov.au/about-dva/freedom-information/foi-disclosure-log>

Your rights of review

11. If you are dissatisfied with the searches the Department did to locate documents related to your request, you may apply for internal review or Information Commissioner review of the decision. We encourage you to seek internal review as a first step as it may provide a more rapid resolution of your concerns.

Internal Review

12. Under section 54 of the FOI Act, you may apply in writing to the Department for an internal review of my decision. The internal review application must be made within 30 days of the date of this letter. Where possible please attach reasons why you believe review of the decision is necessary. The internal review will be carried out by another officer within 30 days.
13. You can make your application for internal review in one of the following ways:

Post: Legal Services & Assurance, Department of Veterans' Affairs
GPO Box 9998 CANBERRA ACT 2601

Facsimile: (02) 6289 6337

Email: foi@dva.gov.au

Information Commissioner Review

14. Under section 54L of the FOI 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: www.oaic.gov.au

Post: Office of the Australian Information Commissioner
GPO Box 5218, Sydney NSW 2001

Facsimile: (02) 9284 9666

Email: enquiries@oaic.gov.au

In person: Level 3, 175 Pitt Street, Sydney NSW.

15. More information about your review rights under the FOI Act is available in Fact Sheet 12 published by the Office of the Australian Information Commissioner: <http://oaic.gov.au/freedom-of-information/foi-resources/freedom-of-information-fact-sheets/foi-factsheet-12-your-review-rights>

Contact us

16. If you wish to discuss this decision, please do not hesitate to contact me using the following details:

Post: Legal Services & Assurance, Department of Veterans' Affairs
GPO Box 9998 CANBERRA ACT 2601

Facsimile: (02) 6289 6337

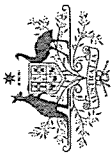
Email: foi@dva.gov.au

Yours sincerely



Frank White
Assistant Director
Information Law
Legal Services & Assurance

20 March 2017



Schedule of documents

Applicant: Mr James Smith

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Doc ref	Date of document	Document description	Decision	Exemption provision
1	N/A	First ballot – voter roll	Full access	N/A
2	N/A	Second ballot – voter roll	Full access	N/A



Schedule of relevant provisions in the FOI Act

3 Objects—general

- (1) The objects of this Act are to give the Australian community access to information held by the Government of the Commonwealth or the Government of Norfolk Island, by:
 - (a) requiring agencies to publish the information; and
 - (b) providing for a right of access to documents.
- (2) The Parliament intends, by these objects, to promote Australia's representative democracy by contributing towards the following:
 - (a) increasing public participation in Government processes, with a view to promoting better informed decision-making;
 - (b) increasing scrutiny, discussion, comment and review of the Government's activities.
- (3) The Parliament also intends, by these objects, to increase recognition that information held by the Government is to be managed for public purposes, and is a national resource.
- (4) The Parliament also intends that functions and powers given by this Act are to be performed and exercised, as far as possible, to facilitate and promote public access to information, promptly and at the lowest reasonable cost.

11 Right of access

- (1) Subject to this Act, every person has a legally enforceable right to obtain access in accordance with this Act to:
 - (a) a document of an agency, other than an exempt document; or
 - (b) an official document of a Minister, other than an exempt document.
- (2) Subject to this Act, a person's right of access is not affected by:
 - (a) any reasons the person gives for seeking access; or
 - (b) the agency's or Minister's belief as to what are his or her reasons for seeking access.

11A Access to documents on request

Scope

- (1) This section applies if:
 - (a) a request is made by a person, in accordance with subsection 15(2), to an agency or Minister for access to:
 - (i) a document of the agency; or
 - (ii) an official document of the Minister; and
 - (b) any charge that, under the regulations, is required to be paid before access is given has been paid.
- (2) This section applies subject to this Act.

Note: Other provisions of this Act are relevant to decisions about access to documents, for example the following:

- (a) section 12 (documents otherwise available);
- (b) section 13 (documents in national institutions);
- (c) section 15A (personnel records);

(d) section 22 (access to edited copies with exempt or irrelevant matter deleted).

Mandatory access—general rule

- (3) The agency or Minister must give the person access to the document in accordance with this Act, subject to this section.

Exemptions and conditional exemptions

- (4) The agency or Minister is not required by this Act to give the person access to the document at a particular time if, at that time, the document is an exempt document.

Note: Access may be given to an exempt document apart from under this Act, whether or not in response to a request (see section 3A (objects—information or documents otherwise accessible)).

- (5) The agency or Minister must give the person access to the document if it is conditionally exempt at a particular time unless (in the circumstances) access to the document at that time would, on balance, be contrary to the public interest.

Note 1: Division 3 of Part IV provides for when a document is conditionally exempt.

Note 2: A conditionally exempt document is an exempt document if access to the document would, on balance, be contrary to the public interest (see section 31B (exempt documents for the purposes of Part IV)).

Note 3: Section 11B deals with when it is contrary to the public interest to give a person access to the document.

- (6) Despite subsection (5), the agency or Minister is not required to give access to the document at a particular time if, at that time, the document is both:
- (a) a conditionally exempt document; and
 - (b) an exempt document:
 - (i) under Division 2 of Part IV (exemptions); or
 - (ii) within the meaning of paragraph (b) or (c) of the definition of exempt document in subsection 4(1).