



Australian Government
**Department of Industry,
Innovation and Science**

Our ref: IEF17/624

Mr James Smith
Right to Know

By email: foi+request-3162-a7656e79@righttoknow.org.au

Dear Mr Smith

Freedom of Information Act – Notice of Decision

I refer to your correspondence received by the Department of Industry, Innovation and Science (the department) on 26 February 2017, in which you sought access under the *Freedom of Information Act* 1982 (the FOI Act) to the following documents:

I request all documents wherein the outcome of any enterprise bargaining ballots were communicated to the department by the entity who undertook the ballots.

This shall include the YES/NO vote amounts or percentages as well as any additional information related to the vote. For example, a breakdown of the vote by employee location, or APS level.

The scope of this request covers any such documents that were received as a result of EBA offers made to staff under:

Workplace Bargaining Policy 2015

or

Australian Government Public Sector Workplace Bargaining Policy 2014

By letter dated 22 March 2017, you were notified that the department was required to undertake consultation with third parties with respect to their business information. Accordingly, the department had 60 days in which to provide you with a decision under the FOI Act.

Decision

I am an authorised decision maker under section 23 of the FOI Act.

I am satisfied that reasonable searches have been undertaken for documents relevant to your request. I am advised that the department has in its possession two (2) documents (consisting of four (4) folios) that are relevant to your request.

Having considered this document, I have decided to partially grant access to the documents.

The reasons for my decision are set out below, as required by section 26 of the FOI Act.

Reasons for Decision

Evidence/Material on which my findings were based

In reaching my decision to exempt material from the documents, I relied on the following documentary evidence:

- *Freedom of Information Act 1982;*
- your correspondence of 26 February 2017 setting out the particulars of the request;
- the documents identified to be within the scope of the request;
- consultations with departmental officers as to the nature of the documents;
- consultation with an affected third party;
- the Guidelines issued by the Office of the Australian Information Commissioner under section 93A of the FOI Act.

Section 22 – Deletion of exempt or irrelevant material

I have decided that the documents relevant to your request contain material that is irrelevant to your request. Subsections 22(1) and (2) of the FOI Act provide that:

Scope

- (1) *This section applies if:*
- (a) *an agency or Minister decides:*
 - (i) *to refuse to give access to an exempt document; or*
 - (ii) *that to give access to a document would disclose information that would reasonably be regarded as irrelevant to the request for access; and*
 - (b) *it is possible for the agency or Minister to prepare a copy (an edited copy) of the document, modified by deletions, ensuring that:*
 - (i) *access to the edited copy would be required to be given under section 11A (access to documents on request); and*
 - (ii) *the edited copy would not disclose any information that would reasonably be regarded as irrelevant to the request; and*
 - (c) *it is reasonably practicable for the agency or Minister to prepare the edited copy, having regard to:*
 - (i) *the nature and extent of the modification; and*
 - (ii) *the resources available to modify the document; and*
 - (d) *it is not apparent (from the request or from consultation with the applicant) that the applicant would decline access to the edited copy.*

Access to edited copy

- (2) *The agency or Minister must:*
- (a) *prepare the edited copy as mentioned in paragraph (1)(b); and*
 - (b) *give the applicant access to the edited copy.*

By email dated 10 March 2017, you were advised that it is the department's policy to treat the names and contact details of departmental staff who are not in the SES as excluded from the scope of your request. Accordingly, I have redacted these names and contact details as irrelevant material pursuant to section 22 of the FOI Act.

I have deleted the irrelevant material and have decided to release the balance of the documents to you. These deletions are identified in the Schedule of Documents.

If you are not satisfied with my decision, your review rights are set out in **Attachment A**.

Please do not hesitate to contact the FOI team by e-mail at FOI@industry.gov.au, if you require any further clarification.

Yours sincerely

A handwritten signature in black ink, appearing to read 'N Marsh', written in a cursive style.

Natalie Marsh
General Manager
People and Planning Branch
Corporate Division

19 April 2017

REVIEW RIGHTS

Application for Internal Review

Section 54 of the FOI Act gives you the option to apply for a departmental internal review of my decision. If you make an application for internal review it will be conducted by an officer of the department (other than me) appointed by the Secretary of the department to conduct a review and make a completely fresh decision on the merits of the case.

Application for a review of the decision must be made within 30 days after the day of receipt of this letter, or within 15 days of receipt of the documents to which this decision relates (whichever is the longer period). You do not have to pay any fees or processing charges for an internal review, except for charges relating to the provision of any additional relevant material located as a result of the review (for example photocopying).

While a specific form is not required, it would assist the decision maker if your application specifies the grounds on which you consider the decision should be reviewed.

Application for a review of a decision should be addressed to:

FOI Coordinator
Department of Industry, Innovation and Science
GPO Box 2013
CANBERRA ACT 2601

Or by e-mail to: FOI@industry.gov.au

Review by the Australian Information Commissioner

Section 54L of the FOI Act gives you the right to apply for review of my decision by the Australian Information Commissioner. An application for review by the Australian Information Commissioner may be made regardless of whether the decision was the subject of a departmental internal review. An application for review by the Australian Information Commissioner must be made within 60 days of receipt of this notice. There is no fee for review by the Australian Information Commissioner.

You must apply in writing and you can lodge your application in one of the following ways:

Online: www.oaic.gov.au
Fax: +61 2 9284 9666
Post: GPO Box 5218
Sydney NSW 2001
Email: enquiries@oaic.gov.au

Your application should include a copy of this notice and your contact details. You should also set out why you are objecting to the decision.

Complaints to the Australian Information Commissioner

You may complain to the Australian Information Commissioner concerning action taken by an agency in the exercise of powers or the performance of functions under the FOI Act. There is no fee for making a complaint. The Australian Information Commissioner will make a completely independent investigation of your complaint. You can make a complaint by telephone, in person, in writing, by fax, or using the online complaint form. Further information about making a complaint is available at: <http://www.ombudsman.gov.au/pages/making-a-complaint/>

Request for Information under the *Freedom of Information Act 1982*

**SCHEDULE OF DOCUMENTS – James Smith
Department of Industry, Innovation and Science**

No.	Description of document	Folios	Decision	Reasons
1	Letter dated 22 May 2015	1 - 2	Release in part	Exemption claimed under s 22 (irrelevant material) of the FOI Act.
2	Letter dated 2 March 2016	3 - 4	Release in part	Exemption claimed under s 22 (irrelevant material) of the FOI Act.