



26 April 2017

FOI ref: 2112

Mr Jackson Gothe-Snape
Right to Know

By email: foi+request-3314-b56d2767@righttoknow.org.au

Dear Mr Gothe-Snape

FREEDOM OF INFORMATION (FOI) REQUEST

I refer to your FOI request to this department dated 28 March 2017. Your request reads as follows:

“Can you please provide the topics list for briefs created in preparation for hearings of Senate 2016-17 Additional Estimates”

I am an authorised decision maker under section 23 of the *Freedom of Information Act 1982* (the Act). This letter sets out my decision in relation to your request.

Material Considered

The material to which I have had regard in making this decision includes:

- the terms of your request;
- the relevant provisions of the Act;
- guidelines issued by the Australian Information Commissioner (the Guidelines); and
- the documents within the scope of your request.

Decision

I have identified one document held by this department which came within the scope of your request. However, I have decided to deny access to that document. Further information regarding my decision is set out below.

Section 26

Section 26 of the Act provides that where an agency refuses to grant access to material under the Act, it must provide the applicant with a written statement setting out the decision maker’s findings on material questions of fact, the material on which those findings are based and the reasons for the decision. Such information in relation to my decision is set out below.

Findings on Material Questions of Fact

My finding is that the document you requested is prepared in the course of a deliberative process of this department.

Material on Which Those Findings are Based

The material on which the above finding is based is the document itself.

Reasons for the Decision

The reason for my decision to refuse access to the document is, in my view, exempt from disclosure under the Act. Further details are set out below.

Section 47C

Section 47C of the Act provides that a document is conditionally exempt if its disclosure would disclose deliberative material in the nature of opinions, advice or recommendations obtained, prepared or recorded in the course of, or for the purposes of, the deliberative processes of an agency or a Minister.

I have found that the documents you have requested contain 'deliberative material' for the purposes of section 47C – that is, advice, recommendations and opinions. Accordingly, that material is conditionally exempt under section 47C.

Public Interest

Section 11A(5) of the Act provides that conditionally exempt material must be released unless its disclosure would be contrary to the public interest. The Act and the Guidelines set out factors which can and cannot be taken into account in making this decision. I have complied with both the Act and the Guidelines in this regard.

I have weighed the factors for and against disclosure of this material and, in my view; the factors against disclosure outweigh the factors in favour of disclosure. I therefore consider that disclosure of the material would, on balance, be contrary to the public interest.

The main factor against disclosure is, in my view, the fact that disclosure could be expected to interfere with the proper operations of government.

Rights of Review

A statement setting out your rights of review in this matter is attached.

Yours sincerely



Kathleen O'Kane
Acting Division Head
Parliamentary and Legal Services Division

INFORMATION ON RIGHTS OF REVIEW

1. APPLICATION FOR INTERNAL REVIEW OF DECISION

Section 54 of the Freedom of Information Act gives you the right to apply for an internal review of the decision refusing to grant access to documents in accordance with your request.

Application for a review of the decision must be made in writing within 30 days of receipt of this letter.

No particular form is required but it would assist the decision-maker if you could set out in the application the grounds on which you consider that the decision should be reviewed.

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

The Secretary
The Treasury
Langton Crescent
PARKES ACT 2600
Attention: Parliamentary and Legal Services Unit

OR

2. APPLICATION TO AUSTRALIAN INFORMATION COMMISSIONER (INFORMATION COMMISSIONER) FOR REVIEW OF DECISION

Section 54L of the Act gives you the right to seek a review of the decision from the Information Commissioner. An application for review must be made within 60 days of receiving the decision.

Applications for review must be in writing and must:

- give details of how notices must be sent to you; and
- include a copy of the notice of decision.

You should send your application for review to:

The Information Commissioner
Office of the Australian Information Commissioner
GPO Box 5218
SYDNEY NSW 2001

AND/OR

3. COMPLAINTS TO THE INFORMATION COMMISSIONER

Section 70 of the Act provides that a person may complain to the Information Commissioner about action taken by an agency in the exercise of powers or the performance of functions under the Act.

A complaint to the Information Commissioner must be in writing and identify the agency the complaint is about. It should be directed to the following address:

The Information Commissioner
Office of the Australian Information Commissioner
GPO Box 5218
SYDNEY NSW 2001

The Information Commissioner may decline to investigate the complaint in a number of circumstances, including that you did not exercise your right to ask the agency, the Information Commissioner, a court or tribunal to review the decision.