



## Administrative Appeals Tribunal

Our ref: 2017/18 01

8 August 2017

Mr Steven Smith

Email: [foi+request-3720-d7beea33@righttoknow.org.au](mailto:foi+request-3720-d7beea33@righttoknow.org.au)

Dear Mr Smith,

### **Notice of Decision for Freedom of Information Request no. 2017/18 01**

The purpose of this letter is to give you a decision about access to documents that you have requested under the *Freedom of Information Act 1982 (FOI Act)*.

#### **Summary**

I am an officer authorised under section 23(1) of the FOI Act to make decisions in relation to FOI requests.

On 12 July 2017 you requested access to the data from the telephone conference that occurred on 6 September 2016 in matter number 2016/2300. On 13 July 2017 I wrote to you to clarify the meaning of 'data', and you responded on 15 July 2017 that by 'data' you mean everything that was said in the telephone conference on the date specified. On 19 July 2017 you clarified further that you are referring to all the information that was recorded in the phone conference.

I have taken your request to be for access to an audio recording and any written notes of the telephone conference held on 6 September 2017 in matter number 2016/2300.

#### **Decision**

I have decided to:

- refuse your request for an audio recording on the basis that it does not exist; and
- grant partial access to the Conference Report and notes written by the Conference Registrar during the telephone conference of 6 September 2016.

In making my decision I have taken the following material into account:

- your emails of 12, 15 and 19 July 2017;
- the FOI Act, specifically sections 21, 22, 24A and 47F; and
- the [guidelines](#) issued by the Australian Information Commissioner under section 93A of the FOI Act.

### ***Audio recording of 6 September 2016 telephone conference***

Section 24A of the FOI Act provides that an agency may refuse a request for access to a document if it is satisfied that it does not exist. Confidentiality is an essential feature of the AAT's Alternative Dispute Resolution processes and accordingly, conferences are not electronically recorded. I am therefore satisfied that an audio recording of the 6 September 2016 conference does not exist and refuse this part of your request under section 24A of the FOI Act.

### ***Conference Report and notes***

I have decided to partially release the 6 September 2016 Conference Report and notes with personal information deleted under section 47F of the FOI Act. Although you have not specifically requested them, I will also release Conference Reports and notes from the other conferences of 13 July 2016 and 9 August 2016 for your convenience.

A document is conditionally exempt under section 47F of the FOI Act if its disclosure would involve the unreasonable disclosure of personal information about any person. I consider that the Conference Registrar's signature in the Conference Reports is personal information.

In determining whether disclosure of the signature would be unreasonable, I have had regard to the following matters:

- 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 relevant matters.

I have determined that disclosure of the signature would be unreasonable because the information is not well known or available from publicly accessible sources. Given that the Conference Report is an internal document and Conference Registrars' signatures are not usually released to applicants or the public, there is a reasonable expectation that the Conference Registrar's personal privacy would be respected and that their personal information would not be disseminated. For these reasons, I find that the information is conditionally exempt under section 47F of the FOI Act.

I have considered whether access to the information would, on balance, be contrary to the public interest having regard to the FOI Guidelines. A relevant public interest factor I have considered which favours disclosure is the promotion of the objects of the FOI Act. A relevant factor against disclosure is that releasing the information could reasonably be expected to prejudice the Conference Registrar's right to privacy.

On balance I consider that the benefits of protecting individuals' privacy must be given greater weight, particularly considering the confidential nature of the document and the fact that the Conference Registrar's signature is not publicly available. I therefore find that disclosure of the information would be contrary to the public interest under section 11A(5) of the FOI Act.

Edited versions of the Conference Reports will be released to you with the signatures redacted, as per section 22 of the FOI Act.

### **Deferred access to the documents**

Section 21(1)(c) of the FOI Act provides that access to documents can be deferred if their release would be contrary to the public interest. I note that the email address you have provided in making your FOI request is not your personal email address. It is important to note that any documents or emails I send to you at the *Right to Know* email address will be made public on the *Right to Know* website for anyone to view. I note that the *Right to Know* website recommends that you do not use their services to make FOI requests for your own personal information (see '[Can I request information about myself?](#)' on their website). Given that the documents contain sensitive personal information about you, I do not consider it to be in the public interest to provide the documents to you at the *Right to Know* email address.

Once I have received your personal email or other address, I will be able to provide you with your documents. Please contact me to provide your personal email address, or other address to which you would like me to send the documents, as soon as possible.

### **Your review rights**

Information about how you can apply for a review of this decision or complain about how we have dealt with this matter is set out in the attached fact sheet, FOI 2.

If you have any questions, please contact me on 02 9276 5360 or at [foi@aat.gov.au](mailto:foi@aat.gov.au).

Yours sincerely,



**Claire Jordan**

Authorised FOI Officer (APS5)

Attachments:

FOI 2 – Information about reviews and complaints under the Freedom of Information Act

## Information about reviews and complaints under the Freedom of Information Act

### What should I do prior to applying for internal review or contacting the Office of the Australian Information Commissioner?

Before you apply for an internal review or contact the Office of the Australian Information Commissioner, we recommend that you telephone the officer who made the FOI decision. It is often possible to resolve concerns or answer your questions using this approach and, if not, the officer will be able to assist you in applying for review.

### How do I apply for internal review to the AAT?

You can apply to us for an internal review of the FOI decision. The application for internal review must be made within 30 days or such further period as we allow, after the day the decision is notified to you. To apply for an internal review you must do so in writing. You may also wish to explain why you are not satisfied with the decision. A different and more senior officer authorised under the *Freedom of Information Act 1982* (the FOI Act) will conduct the internal review and make a new decision within 30 days after receipt of your application.

If you have already applied for internal review and want to seek a further review of that decision, you will need to apply to the Australian Information Commissioner.

### How do I apply for review to the Australian Information Commissioner?

You may also apply directly to the Australian Information Commissioner for review of the FOI decision. The application for review must be made within 60 days after the day notice of the decision was given. An application for review must be in writing, include details of how notices in relation to the review are to be sent to you and include a copy of the decision. You may also wish to explain why you are not satisfied with the decision. An online application form is available on the Office of the Australian Information Commissioner's website, details of which are provided below.

### What if I want to make a complaint about the handling of a Freedom of Information request?

If you have a complaint about the way in which we have processed your request for access under the FOI Act you can ask the Australian Information Commissioner to investigate. An online complaint form is available on the Office of the Australian Information Commissioner's website, details of which are provided below.

### Where can I find further information or contact details for the Office of the Australian Information Commissioner?

Further information is available on the Office of the Australian Information Commissioner's website at [www.oaic.gov.au](http://www.oaic.gov.au) and you can contact the office on 1300 363 992 or by email at [enquiries@oaic.gov.au](mailto:enquiries@oaic.gov.au).

FOI 2 (July 2016)