



Our reference: FOIREQ17/00050

Ms Verity Pane

By email: foi+request-3760-eca7d6e7@righttoknow.org.au

Dear Ms Pane

Your Freedom of Information request

I refer to your request for access to documents under the *Freedom of Information Act 1982* (Cth) (the FOI Act), received by the Office of the Australian Information Commissioner (OAIC) on 31 July 2017.

You requested access to:

... for the period 1 November 2010 (the date the OAIC was established) to 31 July 2017, all documents in possession of the OAIC where the OAIC has explicitly exercised its s 44 Privacy Act powers - not summary compilation, but the actual document that exercises those powers (to avoid all doubt this excludes any document which only just discusses or refers to the potential to exercise such powers, but does not compel the production of documents from a Respondent).

...

I consent to the names or reference numbers of the case involved, the applicant, the respondent, or any information which would be personal information be redacted. However the exercise of s 44 powers and the date that occurred is not personal information, nor does it reveal anything that could reasonably prejudice the operation of the OAIC's functions...

Decision

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

I have identified 20 documents within the scope of your request. I have decided to grant access to all 20 documents.

A schedule of documents can be found at the end of this letter.

Reasons for decision

Material taken into account

In making my decision, I have had regard to the following:

- your Freedom of Information request dated 31 July 2017
- the documents at issue
- the FOI Act, and
- the Guidelines issued by the Australian Information Commissioner under s 93A of the FOI Act to which regard must be had in performing a function or exercising a power under the FOI Act (the FOI Guidelines).

Identification of documents

To locate documents within the scope of your request, the OAIC ran reports in Resolve (the OAIC's case management system) to identify:

- matters where a s 44 workflow had been initiated, and
- any documents containing 's 44' in the title.

We then cross-referenced the two reports, to compile a list of the possible matters where a s 44 notice was issued.

Each matter was then manually checked for a s 44 notice being issued. Not all s 44 workflows initiated resulted in a notice being issued. For example, in some cases documents were provided prior to a notice being issued and therefore a notice was not required.

Resolve, and the s 44 workflow, was introduced in June 2012. To process this request, a search was conducted of all retained migrated records from the former case management system. The documents listed in the schedule attached to this decision includes records identified during this search.

I therefore consider the OAIC has taken all reasonable steps to locate documents within the scope of your request.

I have decided to give you access to all documents where there is evidence a s 44 notice was issued.

Material irrelevant to the request (s 22)

I have decided to release all documents to you, removing material irrelevant to your request under s 22 of the FOI Act.

Section 22 provides as follows:

Access to edited copies with exempt or irrelevant matter deleted

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.

In your request, you removed from scope the 'names or reference numbers of the case involved, the applicant, the respondent, or any information which would be personal information'.

I have prepared an edited copy of the documents. The information that has been removed from the documents:

- is material that is personal information that could identify the applicant, and
- information that may identify the respondent in each matter.

As such I have decided that this material is irrelevant to your request.

All other material has been released to you and no exemptions have been applied.

Disclosure log

Section 11C of the FOI Act requires agencies to publish documents released through an FOI request on our website within 10 days of release, except in certain circumstances including when the documents contain personal or business information that it would be unreasonable to publish.

The documents being released to you do not contain any personal or business information that it would be unreasonable to publish. As a result, they will be published on our [disclosure log](#) shortly.

Yours sincerely

Caren Whip
Director
Dispute Resolution Branch

25 August 2017

If you disagree with my decision

Internal review

You have the right to apply for an internal review of my decision under Part VI of the FOI Act. An internal review will be conducted, to the extent possible, by an officer of the OAIC who was not involved in or consulted in the making of my decision. If you wish to apply for an internal review, you must do so in writing within 30 days. There is no application fee for internal review.

If you wish to apply for an internal review, please mark your application for the attention of the FOI Coordinator and state the grounds on which you consider that my decision should be reviewed.

Further Review

You have the right to seek review of this decision by the Information Commissioner and the Administrative Appeals Tribunal (AAT).

You may apply to the Information Commissioner for a review of my decision (IC review). If you wish to apply for IC review, you must do so in writing within 60 days. Your application must provide an address (which can be an email address or fax number) that we can send notices to, and include a copy of this letter. A request for IC review can be made in relation to my decision, or an internal review decision.

It is the Information Commissioner's view that it will usually not be in the interests of the administration of the FOI Act to conduct an IC review of a decision, made by the agency that the Information Commissioner heads: the OAIC. For this reason, if you make an application for IC review of my decision, it is likely that the Information Commissioner will decide (under s 54W(b) of the FOI Act) not to undertake an IC review on the basis that it is desirable that my decision be considered by the AAT.

Section 57A of the FOI Act provides that, before you can apply to the AAT for review of an FOI decision, you must first have applied for IC review.

Applications for internal review or IC review can be submitted to:

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

Alternatively, you may submit your application by email to foi@oaic.gov.au, or by fax on 02 9284 9666.

Schedule of documents – Freedom of information request no. FOIREQ17/00050

Document no.	Page no.	Date	No. of pages	Description	Decision on access	Exemption
1	001	February 2011	13	Section 44 Notice Including schedule and annexure	Access granted in full	N/A
2	014	31 July 2012	12	Section 44 Notice Including schedule and annexure	Access granted in full	N/A
3	026	25 October 2012	12	Section 44 Notice Including schedule and annexure	Access granted in full	N/A
4	038	19 August 2014	10	Section 44 Notice Including annexure	Access granted in full	N/A
5	048	9 February 2015	3	Section 44 Notice Including annexure	Access granted in full	N/A
6	051	26 February 2015	3	Section 44 Notice	Access granted in full	N/A
7	054	20 May 2015	2	Section 44 Notice Including schedule	Access granted in full	N/A
8	056	10 July 2015	1	Section 44 Notice	Access granted in full	N/A
9	057	14 August 2015	1	Section 44 Notice	Access granted in full	N/A
10	058	16 November 2015	2	Section 44 Notice Including schedule	Access granted in full	N/A

Document no.	Page no.	Date	No. of pages	Description	Decision on access	Exemption
11	060	19 February 2016	2	Section 44 Notice	Access granted in full	N/A
12	062	13 April 2016	2	Section 44 Notice Including schedule	Access granted in full	N/A
13	064	12 May 2016	5	Cover letter with s 44 Notice Including schedule	Access granted in full	N/A
14	069	3 June 2016	3	Section 44 Notice Including schedule	Access granted in full	N/A
15	072	6 October 2016	4	Cover letter with s 44 Notice Including schedule	Access granted in full	N/A
16	076	18 October 2016	2	Section 44 Notice Including schedule	Access granted in full	N/A
17	078	9 December 2016	3	Cover letter with s 44 Notice	Access granted in full	N/A
18	081	22 December 2016	4	Cover letter with s 44 Notice Including schedule	Access granted in full	N/A
19	085	23 December 2016	2	Cover letter with s 44 Notice Including schedule	Access granted in full	N/A
20	087	22 March 2017	5	Cover letter with s 44 Notice Including schedule	Access granted in full	N/A