



**Australian Government**  

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**Australian Public Service Commission**

Fliccy

By email: [foi+request-4192-53e33be4@righttoknow.org.au](mailto:foi+request-4192-53e33be4@righttoknow.org.au)

APSC reference: SHC19-79

Dear Sir / Madam

***Freedom of information request***

1. I am writing to notify you of a decision I have made on your 30 June 2019 request for documents under the *Freedom of Information Act 1982* (FOI Act).

***Scope of your request***

2. You have requested access to the following documents held by the Australian Public Service Commission (APSC):

*"...copies of any documents within all of Ms Luck-Cameron's email account (including drafts and deleted items) that contain my name/personal information: "Fliccy"."*

3. You excluded the following information from the scope of your request:

*"...the personal information of any person other than that of myself or any person who was a public servant at the relevant time."*

4. All documents relevant to your request were retrieved from Ms Luck-Cameron's Microsoft Outlook email account.

***Decision on your request***

5. I am authorised under section 23(1) of the FOI Act to make Freedom of Information (FOI) request decisions.
6. I identified 21 documents relevant to your FOI request. Find attached a schedule listing these documents at **Attachment A**.
7. I found that some parts of these requested documents are exempt from disclosure under the FOI Act. My reasons for these findings are at **Attachment B**.

***Deletion of exempt matter or irrelevant material***

8. Sections 22(1)(b) and 22(2) of the FOI Act require an agency provide access to an edited version of a document where it is reasonably practicable to edit the document to remove exempt or irrelevant material to your FOI request.

9. I have attached to this letter copies of documents relevant to your FOI request. These documents have been edited to remove material that is either exempt or irrelevant to your FOI request. The schedule at **Attachment A** sets out the grounds on which information has been redacted from the documents relevant to your request.

### **Publication**

10. The APSC must publish information relating to material that has been released in response to each FOI access request in accordance with section 11C of the FOI Act. This publication is known as a 'disclosure log'.
11. The disclosure log requirement does not apply to personal information about any person if it would be unreasonable to publish the information or to information about the business, commercial, financial or professional affairs of any person if publication of that information would be unreasonable.
12. The APSC is not required to consult with you on any decision to publish information that is released to you and the decision to publish information is not subject to review internally by the APSC or externally by the Office of the Australian Information Commissioner (OAIC). Any person can however, make a complaint to OAIC about how an agency handles an FOI request.

### **Contacts**

13. If you need clarification of any of the matters in this letter you may contact the APSC's FOI Coordinator by telephone on (02) 6202 3500 or by email at [foi@apsc.gov.au](mailto:foi@apsc.gov.au).

### **Review Rights**

14. If you are dissatisfied with this decision, you are entitled to seek a review. Your review rights are set out in **Attachment C**.

Yours sincerely



Jacquie Walton

Authorised FOI decision maker

20 August 2019

ATTACHMENT A

SHC19-79 – schedule of documents						
Doc	Folio	Date	Author	Recipient	Description	Basis of redaction(s)
1	1	19/02/2018	FOI	John Lloyd, Jenet Connell, Kerry Vine-Camp, Kerren Crosthwaite, Redacted	Email	s.47C, s.47F
2	6	23/01/2018	Fliccy	OAIC Enquiries	Attachment to document 1	Nil
3	7	2/11/2017	Fliccy	FOI	Attachment to document 1	Nil
4	9	4/06/2019	Redacted	Susannah Luck-Cameron, Redacted	Email	s.47F
5	10	4/06/2019	APSC	APSC	Attachment to document 4	s.22, s.47F
6	16	10/01/2018	Redacted	Redacted	Email	s.47F
7	17	10/01/2018	Redacted	Redacted	Email	s.47F
8	18	Undated	Redacted	Unspecified	Attachment to document 7	s.47F
9	19	9/01/2018	Redacted	Redacted	Email	s.47F
10	20	19/02/2019	Redacted	Redacted	Email	s.47F
11	21	See description	APSC	APSC	Attachment to document 10. Note: document appears to include a date field which auto-updates when document is opened.	s.22
12	25	18/12/2017	Redacted	Redacted	Email	s.22, s.47F
13	27	10/01/2018	Redacted	Redacted	Email	s.47F
14	28	10/01/2018	Redacted	Redacted	Email	s.47F
15	30	23/02/2018	Redacted	Redacted	Email	s.22, s.47F
16	31	7/06/2019	Redacted	Susannah Luck-Cameron, Redacted	Email	s.47F
17	32	11/06/2019	APSC	APSC	Attachment to document 16	s.22, s.47F
18	37	28/05/2019	Redacted	Susannah Luck-Cameron, Redacted	Email	s.22, s.47F
19	38	28/05/2019	APSC	APSC	Attachment to document 18	s.22, s.47F
20	44	21/05/2019	Redacted	Susannah Luck-Cameron, Redacted	Email	s.47F
21	45	21/05/2019	APSC	APSC	Attachment to document 20	s.22

## REASONS FOR DECISION

1. My reasons for applying the specified exemptions are set out below.

### ***Section 47C – deliberative matter***

2. Section 47C of the FOI Act provides that a document is conditionally exempt from disclosure if it would disclose certain deliberative matters.
3. Document 1 contains communication between the APSC's FOI Coordinator and the senior executive of the APSC about a request for an Information Commissioner review.
4. The communication in this document included opinions, advice and recommendations for the Australian Public Service Commissioner at the time, Mr John Lloyd. The relevant part of this communication opened with a background of information relied on, then listed proposed approaches and finally likely outcomes and opinions on information received from OAIC.
5. I also considered paragraphs 6.58 and 6.61 of OAIC's 2019 FOI Guidelines (FOI Guidelines) and in my opinion the communications were informing Mr Lloyd on a number of options to take as part of a deliberative process within the APSC.
6. Based on the reasons above I find that the advice portion of document 1 is deliberative matter under section 47C of the FOI Act and is therefore conditionally exempt from disclosure.

### ***Section 47F – personal privacy***

7. Section 47F of the FOI Act provides that a document is conditionally exempt if its release would amount to an **unreasonable** disclosure of personal information about any person.
8. I have informed my view on unreasonableness by considering the factors set out in subsection 47F(2) of the FOI Act and paragraphs 6.142, 6.143, 6.153 and 6.154 of the FOI Guidelines.
9. Personal information of individuals have been identified in documents 1, 4, 5-10, 12-16 and 18-20.
10. I am satisfied that under subsection 47F(2) of the FOI Act, personal information that has been edited is not well known outside of the APSC, will identify individuals who are not associated with the specific details included in the documents themselves and is not available from publicly accessible sources such as government websites.
11. After consulting with the individuals whose personal information is subject to your FOI request, and considering paragraph 6.142 and 6.143 of the FOI Guidelines I also found the following factors support non-disclosure:

- Multiple affected parties voiced concerns that release of their personal information as part of your request would cause undue stress through exposing details such as their phone numbers and email addresses to unknown persons;
- The FOI Act is not able to regulate any subsequent use of this information and there are concerns the information you receive will be used to cause detriment to the reputations of these parties.

12. I have considered whether **special circumstances** also exist under paragraph 6.153 of the FOI Guidelines to prevent the disclosure of this public servant personal information.

13. I believe that special circumstances exist supporting non-disclosure on the basis you have made previous and current unsubstantiated allegations on the Right to Know (RtK) website against public servants. Your allegations against these individuals range from dishonesty to illegal conduct. Disclosing the personal information of these public servants would permanently link them to these allegations on the RtK website.

14. I have decided the disclosure of personal information of Senior Executive Service (SES) public servants would not be unreasonable and so have not removed that information. I considered paragraph 6.154 of the FOI Guidelines and in doing affirm my decision to allow disclosure of the SES public servants' personal information because unlike non-SES public servants, SES public servants:

- Are generally accepted to be subject to greater scrutiny and accountability, for example through a requirement to appear publicly at Senate Estimate hearings;
- Have their names, positions and contact details published publicly through websites such as [www.directory.gov.au](http://www.directory.gov.au) or through their agency websites.

15. Taking into account the matters above, I find disclosure of only non-SES public servants' personal information would involve unreasonable disclosure of personal information from documents 1, 4, 5-10, 12-16 and 18-20 under section 47F of the FOI Act.

#### ***Section 11A – public interest considerations***

16. As above, I have determined that parts of the documents you have requested are conditionally exempt from disclosure under sections 47C and 47F of the FOI Act.

17. Subsection 11A(5) of the FOI Act requires that I give access to those parts of the documents unless, in the circumstances, access would, on balance, be contrary to the public interest.

18. I have had regard to the factors set out at subsection 11B(3) of the FOI Act as being public interest factors in favour of granting access to a document. I have disregarded the factors set out at subsection 11B(4) of the FOI Act which are deemed to be irrelevant in determining whether access would be in the public interest.

19. I identified the following public interest factors in favour of disclosure of the conditionally exempt information:

- Disclosure would provide the public with information about how the APSC undertakes its functions;
- Disclosure would promote public debate into the operations of the APSC.

20. I identified the following public interest factors as weighing against disclosure of the conditionally exempt information:

- Disclosure would adversely affect individuals' rights to privacy;
- Disclosure could expose specific individuals to unsubstantiated allegations through the RtK website, causing harm to those individuals' reputations;
- Disclosing personal information would adversely affect these individuals' personal privacy while not providing any additional insight into the workings of government;
- Disclosure would make decision-makers within the APSC, reluctant to record deliberative matters in written form.

In my opinion and based on the reasons I have provided, the public interest factors against disclosure outweigh the public interest factors in favour of disclosure. Therefore, on balance, I find the disclosure of the conditionally exempt parts of your request would be contrary to the public interest. These parts of the documents are therefore exempt from disclosure under the FOI Act.

## RIGHTS OF REVIEW

If you are dissatisfied with this decision, you may seek review. Before you seek review of an FOI decision, you may contact us to discuss your request and we will explain the decision to you.

### Seeking review of a Freedom of Information decision

If you still believe a decision is incorrect, the FOI Act gives you the right to apply for a review of the decision. Under sections 54 and 54L of the FOI Act, you can apply for a review of an FOI decision by seeking:

1. An internal review by an different officer of the APSC; and/or
2. An external review by OAIC.

There are no fees applied to either review option.

### Applying for a review by an Internal Review Officer

If you apply for internal review, a different decision maker to the departmental delegate who made the original decision will carry out the review. The Internal Review Officer will consider all aspects of the original decision and decide whether it should change. An application for internal review must be made in writing within 30 days of receiving this letter to:

**Email:** [foi@apsc.gov.au](mailto:foi@apsc.gov.au)

**Post:** The FOI Coordinator  
Australian Public Service Commission  
B Block, Treasury Building  
GPO Box 3176  
Parkes Place West  
PARKES ACT 2600

You do not need to fill in a form. However, it is a good idea to set out any relevant submissions you would like the Internal Review Officer to further consider, and your reasons for disagreeing with the decision.

### Applying for external review by OAIC

If you do not agree with the original FOI decision or the internal review decision, you can ask OAIC to review the decision. You have 60 days to apply in writing for a review by OAIC from the date you received this letter or any subsequent internal review decision.

You can **lodge your application:**

**Online:** [www.oaic.gov.au](http://www.oaic.gov.au)

**Post:** Australian Information Commissioner

GPO Box 5218  
SYDNEY NSW 2001

Email: [enquiries@oaic.gov.au](mailto:enquiries@oaic.gov.au)

The OAIC encourage applicants to apply online. Where possible, to assist the OAIC you should include your contact information, a copy of the related FOI decision and provide details of your reasons for objecting to the decision.

#### Complaints to OAIC and Commonwealth Ombudsman

##### ***OAIC***

You may complain to OAIC 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. A complaint with OAIC must be made in writing. OAIC's contact details are:

Telephone: 1300 363 992

Website: [www.oaic.gov.au](http://www.oaic.gov.au)

##### ***Commonwealth Ombudsman***

You may complain to the Ombudsman 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. A complaint to the Ombudsman may be made in person, by telephone or in writing. The Ombudsman's contact details are:

Phone: 1300 362 072

Website: [www.ombudsman.gov.au](http://www.ombudsman.gov.au)