



Statement of reasons made under the *Freedom of Information Act 1982*

Decision and reason for decision of Vicki Guthrie, Assistant Director, Information Law,
Legal Services & Assurance

Applicant: Verity Pane
Decision date: 5 December 2017
FOI reference number: FOI 19198

Dear Verity Pane

Freedom of Information Request: FOI 19198

1. I have made a decision to grant access to the document falling within the scope of your request in full.

Summary

2. I, Vicki Guthrie, Assistant Director, Information Law, Legal Services & Assurance, am an officer authorised by the Secretary of the Department of Veterans' Affairs (the Department) to make decisions about access to documents in the possession of the Department in accordance with section 23(1) of the *Freedom of Information Act 1982* (the FOI Act).
3. On 7 November 2017 you made a request for access to a document in the possession of the Department. Your request was in the following terms:

"The time period for the scope of my FOI is FY16/17.

The subject matter for the scope of my FOI is all APP 12 Privacy Act access applications made to the DVA (which I understand are all handled centrally by the Information Law Legal Services & Assurance Branch of DVA).

I request to be complied under s 17 (unless existing document exists that provides the information sought), for the above scope, the following:

- * the number of APP 12 applications received (broken down by month in FY16/17);*
- * for each APP 12 application received during FY16/17, the number of days that elapsed before Defence gave an APP 12 decision (from the day following the date the APP 12 access application was made); and*
- * the number of APP 12 access decisions refused in full, provided in part, or provided in full (from those received in FY16/17)."*

4. By email dated 21 November 2017, you amended the scope of your FOI request as follows:

"... rather than calculate the days elapsed since DVA received a APP 12 document/s access request and the date DVA gives an APP 12 decision, just provide for a list complied under s 17 (if not already in an existing document) the date each APP 12 application was received, and the date it received an APP 12 access decision (on the same line, for each separate APP 12 application), for the time period in question."

5. Although your request seeks access to the "number of days that elapsed before Defence gave a decision", I have understood your request to be for the number of days before the Department gave a decision.
6. I have decided not to impose a charge in relation to this request, in accordance with regulation 3(1) of the *Freedom of Information (Charges) Regulations 1982*.
7. The Department has undertaken a reasonable search of its records and has, in accordance with section 17 of the FOI Act, produced a document that meets the scope of your request. The document is listed at Schedule 1.

Decision and Reasons for Decision

8. I have made a decision to grant access to the document that falls within the scope of your request in full. The document that I have chosen to release under the FOI Act is set out in Schedule 1.

Material taken into account

9. I have taken the following material into account in making my decision:
- the content of the document that falls within the scope of your request;
 - your email correspondence dated 7, 21 and 22 November 2017;
 - Sections 3, 11 and 11A of the FOI Act which give the Australian community a legally enforceable right to obtain access to information held by the Government of the Commonwealth; and
 - the Guidelines issued by the Australian Information Commissioner under section 93A of the FOI Act (FOI Guidelines);
10. A full extract of all FOI Act provisions used to make my decision are provided in Schedule 2.

Access to documents

11. The document released to you in accordance with the FOI Act is enclosed.

Information Publication Scheme

12. In accordance with the Information Publication Scheme, the Department is required under section 11C of the FOI Act to publish information released in response to individual requests made under the Act, except in specified circumstances. Details of your request will be published by the Department on its disclosure log, which can be accessed at:

<http://www.dva.gov.au/about-dva/freedom-information/foi-disclosure-log>

Your rights of review

13. If you are dissatisfied with the searches the Department did to locate documents related to your request, you may apply for internal review or Information Commissioner review of the decision. We encourage you to seek internal review as a first step as it may provide a more rapid resolution of your concerns.

Internal Review

14. Under section 54 of the FOI Act, you may apply in writing to the Department for an internal review of my decision. The internal review application must be made within 30 days of the date of this letter. Where possible please attach reasons why you believe review of the decision is necessary. The internal review will be carried out by another officer within 30 days.
15. You can make your application for internal review in one of the following ways:
- Post:** Legal Services & Assurance, Department of Veterans' Affairs
GPO Box 9998 CANBERRA ACT 2601
 - Facsimile:** (02) 6289 6337
 - Email:** foi@dva.gov.au

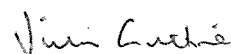
Information Commissioner Review

16. Under section 54L of the FOI Act, you may apply to the Australian Information Commissioner to review my decision. An application for review by the Information Commissioner must be made in writing within 60 days of the date of this letter, and be lodged in one of the following ways:
- Online:** www.oaic.gov.au
 - Post:** Office of the Australian Information Commissioner
GPO Box 5218, Sydney NSW 2001
 - Facsimile:** (02) 9284 9666
 - Email:** enquiries@oaic.gov.au
 - In person:** Level 3, 175 Pitt Street, Sydney NSW.
17. More information about your review rights under the FOI Act is available in Fact Sheet 12 published by the Office of the Australian Information Commissioner: <http://oaic.gov.au/freedom-of-information/foi-resources/freedom-of-information-fact-sheets/foi-factsheet-12-your-review-rights>

Contact us

18. If you wish to discuss this decision, please do not hesitate to contact me using the following details:
- Post:** Legal Services & Assurance, Department of Veterans' Affairs
GPO Box 9998 CANBERRA ACT 2601
 - Facsimile:** (02) 6289 6337
 - Email:** foi@dva.gov.au

Yours sincerely



Vicki Guthrie
Assistant Director
Information Law
Legal Services & Assurance
5 December 2017

Schedule of documents

Applicant: Verity Pane

Decision date: 5 December 2017

FOI reference number: FOI 19198

Doc ref	Document description	Pages	Decision	Exemption provision
1	APP 12 requests received by the Department in FY 16/17	1	Release in full	NA



Schedule of relevant provisions in the FOI Act

3 Objects—general

- (1) The objects of this Act are to give the Australian community access to information held by the Government of the Commonwealth or the Government of Norfolk Island, by:
 - (a) requiring agencies to publish the information; and
 - (b) providing for a right of access to documents.
- (2) The Parliament intends, by these objects, to promote Australia's representative democracy by contributing towards the following:
 - (a) increasing public participation in Government processes, with a view to promoting better informed decision-making;
 - (b) increasing scrutiny, discussion, comment and review of the Government's activities.
- (3) The Parliament also intends, by these objects, to increase recognition that information held by the Government is to be managed for public purposes, and is a national resource.
- (4) The Parliament also intends that functions and powers given by this Act are to be performed and exercised, as far as possible, to facilitate and promote public access to information, promptly and at the lowest reasonable cost.

11 Right of access

- (1) Subject to this Act, every person has a legally enforceable right to obtain access in accordance with this Act to:
 - (a) a document of an agency, other than an exempt document; or
 - (b) an official document of a Minister, other than an exempt document.
- (2) Subject to this Act, a person's right of access is not affected by:
 - (a) any reasons the person gives for seeking access; or
 - (b) the agency's or Minister's belief as to what are his or her reasons for seeking access.

11A Access to documents on request

Scope

- (1) This section applies if:
 - (a) a request is made by a person, in accordance with subsection 15(2), to an agency or Minister for access to:
 - (i) a document of the agency; or
 - (ii) an official document of the Minister; and
 - (b) any charge that, under the regulations, is required to be paid before access is given has been paid.
- (2) This section applies subject to this Act.

Note: Other provisions of this Act are relevant to decisions about access to documents, for example the following:

- (a) section 12 (documents otherwise available);
- (b) section 13 (documents in national institutions);
- (c) section 15A (personnel records);

- (d) section 22 (access to edited copies with exempt or irrelevant matter deleted).

Mandatory access—general rule

- (3) The agency or Minister must give the person access to the document in accordance with this Act, subject to this section.

Exemptions and conditional exemptions

- (4) The agency or Minister is not required by this Act to give the person access to the document at a particular time if, at that time, the document is an exempt document.

Note: Access may be given to an exempt document apart from under this Act, whether or not in response to a request (see section 3A (objects—information or documents otherwise accessible)).

- (5) The agency or Minister must give the person access to the document if it is conditionally exempt at a particular time unless (in the circumstances) access to the document at that time would, on balance, be contrary to the public interest.

Note 1: Division 3 of Part IV provides for when a document is conditionally exempt.

Note 2: A conditionally exempt document is an exempt document if access to the document would, on balance, be contrary to the public interest (see section 31B (exempt documents for the purposes of Part IV)).

Note 3: Section 11B deals with when it is contrary to the public interest to give a person access to the document.

- (6) Despite subsection (5), the agency or Minister is not required to give access to the document at a particular time if, at that time, the document is both:
- (a) a conditionally exempt document; and
 - (b) an exempt document:
 - (i) under Division 2 of Part IV (exemptions); or
 - (ii) within the meaning of paragraph (b) or (c) of the definition of exempt document in subsection 4(1).

17 Requests involving use of computers etc.

- (1) Where:

- (a) a request (including a request in relation to which a practical refusal reason exists) is made in accordance with the requirements of subsection 15(2) to an agency;
- (b) it appears from the request that the desire of the applicant is for information that is not available in discrete form in written documents of the agency; and
- (ba) it does not appear from the request that the applicant wishes to be provided with a computer tape or computer disk on which the information is recorded; and
- (c) the agency could produce a written document containing the information in discrete form by:
 - (i) the use of a computer or other equipment that is ordinarily available to the agency for retrieving or collating stored information; or
 - (ii) the making of a transcript from a sound recording held in the agency;

the agency shall deal with the request as if it were a request for access to a written document so produced and containing that information and, for that purpose, this Act applies as if the agency had such a document in its possession.

- (2) An agency is not required to comply with subsection (1) if compliance would substantially and unreasonably divert the resources of the agency from its other operations.