



## Australian Government

### Department of Finance

Reference: FOI13/108  
Contact: FOI Team  
Telephone: 02 6215 1783  
e-mail: [foi@finance.gov.au](mailto:foi@finance.gov.au)

Ms Margo Kingston

**via email:** [foi+request-438-a61b157a@righttoknow.org.au](mailto:foi+request-438-a61b157a@righttoknow.org.au)

Dear Ms Kingston

### **Freedom of Information Request – FOI13/108**

Thank you for your email of 11 September 2013 to the Department of Finance (Finance) in which you sought access to the following documents under the Freedom of Information Act 1982 (FOI Act).

*documents which concern or refer to the expenses claims of Tony Abbott to attend the wedding of Sophie Mirabella in Wangaratta on 10 June 2006 and the wedding of Peter Slipper on the Sunshine Coast on 12 August, 2006*

The purpose of this letter is to provide you with notice of my decision under the FOI Act.

### **Decision**

I am authorised by the Secretary under subsection 23(1) of the FOI Act to grant or deny access to documents under the FOI Act.

I have decided to:

- release 3 documents in part with material redacted on the basis that it is either irrelevant to the scope of your FOI request (s22 of the FOI Act) or exempt material deleted on the basis of personal information (section 47F of the FOI Act).

### **Reasons for Decision**

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

- the terms of your FOI request;
- the content of the documents that fall within the scope of your request;
- the relevant provisions of the FOI Act; and
- the FOI Guidelines issued by the Office of the Australian Information Commissioner.

### **Section 22 – Access to edited copies with exempt or irrelevant matter deleted**

Section 22 of the FOI Act allows for the deletion of exempt or irrelevant matter from a document that may allow for an edited form of the document to be released. I have decided that edited copies of certain documents can be released to you under this category.

Accordingly, I have decided to provide you with access to 3 documents with the exempt or irrelevant information redacted.

A copy of section 22 of the FOI Act is at [Attachment A](#).

### **Irrelevant Material**

The redacted information within the documents contains material that is irrelevant to your request. Specifically, the names and details of staff members and other third parties are considered irrelevant to your request.

### **Exempt Material**

I have determined to redact information within the documents as it contains material which is exempt under the provisions of the FOI Act, specifically on the basis that the material contains personal information that would be unreasonable to disclose.

### **Section 47F – Personal Privacy**

In so far as is relevant, section 47F of the FOI Act states that:

*47F (1) A document is conditionally exempt if its disclosure under this Act would involve the unreasonable disclosure of personal information about any person (including a deceased person).*

In addition, under section 11A, access must generally be given to a conditionally exempt document unless it would be contrary to the public interest.

A copy of section 47F of the FOI Act is at [Attachment B](#).

For information to be conditionally exempt, I must first be satisfied that the information is personal information. If the documents contain personal information, I must then address the issue of if it would be unreasonable to disclose the personal information.

### Personal Information

Section 4 of the FOI Act provides a definition of ‘personal information’. It is defined as ‘information or an opinion (including information forming part of a database), whether true or not, and whether recorded in a material form or not, about an individual whose identity is apparent, or can reasonably be ascertained, from the information or opinion’.

In determining whether disclosure of the personal information would be unreasonable, I must consider the following factors:

- the nature of the information,
- the circumstances in which the information was obtained,
- the current relevance of the information,
- the stated object of the FOI Act to facilitate and promote the disclosure of information,
- the extent to which the person concerned is a public figure and the relationship of the information to that public status,

- the extent to which the information is well known or already a matter of public knowledge or readily available to the public,
- whether there was any expectation of confidentiality, and
- whether the information would provide information on the workings of government.

I am satisfied that the redacted material in the documents contains matter that would involve the unreasonable disclosure of personal information about a person. It is quite clear that the information contained in the documents is personal information, specifically the frequent flyer number(s).

Is disclosure unreasonable?

Having formed the view that the documents are conditionally exempt under section 47F of the FOI Act, I am now required to consider whether disclosure of documents would be contrary to the public interest.

Paragraphs 6.131 and 6.132 of the FOI Guidelines identify the following factors as relevant to determining whether disclosure of personal information would be unreasonable:

- the author of the document is identifiable;
- the document contains third party personal information;
- release of the document would cause stress on the third party;
- no public purpose would be achieved through release;
- the nature of the information, that is, whether it is common or disclosure would result in serious consequences;
- how the information was obtained, that is, covertly, in confidence or using information gathering powers; and
- whether it would shed light on the workings of government.

I am satisfied that the document contains matter that would involve the unreasonable disclosure of personal information, namely the frequent flyer number.

The document contains personal information about an individual's frequent flyer number which is a sensitive category of personal information. Release of the document would be likely to place stress on the individual concerned and their family. The information contained in the document was given in a context in which there was a reasonable expectation of privacy. This information is not publicly known and was collected in the context of the establishment of a parliamentary entitlement claim which may have had the expectation that it would not be released.

I have formed the view that some material contained in the documents would be unreasonable to disclose. Having formed the view that some material contained in the document is conditionally exempt under section 47F, I will now consider whether disclosure of the document would be contrary to the public interest.



In accordance with subsection 11B(3) of the FOI Act, I have considered the following factors favouring disclosure of the document.

- *Release of the document would promote the objects of the Act:* I note that the release of this information would give the Australian community access to information held by the Commonwealth that would not otherwise be readily accessible. However, I do not consider that the release of this information would contribute to the other objectives of the FOI Act, and place little weight on this factor;
- *Release of the document would inform debate on a matter of public importance:* in considering that this is a relevant public interest consideration, I submit that these details are not in the general interest of the Australian community. Also, I consider that the release of this information would not inform public debate to a greater degree than the release of the documents without this information. As such, I do not place great weight on this factor for favouring disclosure.
- *Release would promote effective oversight of public expenditure:* Entitlements by Members of Parliament are funded by tax payers and the release of documents could promote effective oversight of public expenditure. However, releasing the personal information contained within the documents would not further promote this objective.

I have also considered the following factors against disclosure of the document.

- *Release of the document could reasonably be expected to prejudice the protection of an individual's right to privacy:* an individual's right to privacy is a strong consideration and compelling reasons need to exist in order to override that right. The documents contain personal information and release of that information would be likely to place stress on the individual concerned and his family. The information contained in the document was given in a context in which there was a reasonable expectation of privacy. This information is not publicly known and was collected in the establishment of a parliamentary entitlement claim which may have had the expectation that it would not be released.

I have not considered the irrelevant factors prescribed in section 11B(4) of the FOI Act.

Taking into account the matters listed above against each of the relevant documents, I have determined that the factors against disclosure of the redacted material, the right to privacy, outweigh the factors in favour of disclosure. Accordingly, I have determined that the parts of the documents that have been redacted are exempt under section 47F of the FOI Act.

### **Charges**

On 10 September 2013, Finance sent you an estimate of charges (\$547.30) in relation to the processing of your request. I have reviewed the estimate of charges provided to you and confirm that the estimated cost is a true account of the actual time spent on your request.

On 15 November 2013, Finance received your payment of the deposit (\$136.83). There is still \$410.47 outstanding. Once this amount is received, the documents, as outlined above and in the Schedule, will be sent to you

**Review and Appeal Rights**

You are entitled to request an internal review of my decision. Your appeal rights are set out in Attachment C.

**Publication**

The FOI Act requires Commonwealth agencies to publish information in documents released under the FOI Act. Any documents provided to you under the FOI Act will be published on Finance's FOI Disclosure Log ([www.finance.gov.au](http://www.finance.gov.au)) as soon as possible after they are released to you, usually 1 – 2 working days.

Please contact the FOI Team on the above details if you have any enquiries.

Yours sincerely



Cheryl-anne Moy  
First Assistant Secretary  
Ministerial and Parliamentary Services  
January 2014

**FREEDOM OF INFORMATION ACT 1982 - SECTION 22**

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.

Access to edited copy

2. The agency or Minister must:
  - a) prepare the edited copy as mentioned in paragraph (1)(b); and
  - b) give the applicant access to the edited copy.

Notice to applicant

3. The agency or Minister must give the applicant notice in writing:
  - a) that the edited copy has been prepared; and
  - b) of the grounds for the deletions; and
  - c) if any matter deleted is exempt matter--that the matter deleted is exempt matter because of a specified provision of this Act.

Section 26 (reasons for decision) does not apply to the decision to refuse access to the whole document unless the applicant requests the agency or Minister to give the applicant a notice in writing in accordance with that section.



**FREEDOM OF INFORMATION ACT 1982 - SECTION 47F**

## Public interest conditional exemptions – personal privacy

## General rule

1. A document is conditionally exempt if its disclosure under this Act would involve the unreasonable disclosure of personal information about any person (including a deceased person).
2. In determining whether the disclosure of the document would involve the unreasonable disclosure of personal information, an agency or Minister must have regard to the following matters:
  - a) the extent to which the information is well known;
  - b) 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;
  - c) the availability of the information from publicly accessible sources;
  - d) any other matters that the agency or Minister considers relevant.
3. Subject to subsection (5), subsection (1) does not have effect in relation to a request by a person for access to a document by reason only of the inclusion in the document of matter relating to that person.

## Access given to qualified person instead

4. Subsection (5) applies if:
  - a) a request is made to an agency or Minister for access to a document of the agency, or an official document of the Minister, that contains information concerning the applicant, being information that was provided by a qualified person acting in his or her capacity as a qualified person; and
  - b) it appears to the principal officer of the agency or to the Minister (as the case may be) that the disclosure of the information to the applicant might be detrimental to the applicant's physical or mental health, or well-being.
5. The principal officer or Minister may, if access to the document would otherwise be given to the applicant, direct that access to the document, so far as it contains that information, is not to be given to the applicant but is to be given instead to a qualified person who:
  - a) carries on the same occupation, of a kind mentioned in the definition of qualified person in subsection (7), as the first-mentioned qualified person; and
  - b) is to be nominated by the applicant.
6. The powers and functions of the principal officer of an agency under this section may be exercised by an officer of the agency acting within his or her scope of authority in accordance with arrangements referred to in section 23.
7. In this section:

"*qualified person*" means a person who carries on, and is entitled to carry on, an occupation that involves the provision of care for the physical or mental health of people or for their well-being, and, without limiting the generality of the foregoing, includes any of the following:

- a) a medical practitioner;
- b) a psychiatrist;
- c) a psychologist;
- d) a counsellor;
- e) a social worker.

Note: Access must generally be given to a conditionally exempt document unless it would be contrary to the public interest (see section 11A).



## Freedom of Information – Your Review Rights

If you disagree with the decision made by the Department of Finance and Deregulation (Finance) under the *Freedom of Information Act 1982* (the FOI Act), you can ask for the decision to be reviewed. You may want to seek review if you sought certain documents and were not given full access, if you have been informed that there will be a charge for processing your request, if you have made a contention against the release of documents that has not been agreed to by the Department, or if your application to have your personal information amended was not accepted. There are two ways you can ask for review of a decision: internal review by Finance, or external review by the Australian Information Commissioner.

### Internal Review

If Finance makes an FOI decision that you disagree with, you can ask Finance to review its decision. The review will be carried out by a different agency officer, usually someone at a more senior level. There is no charge for internal review.

You must apply within 30 days of being notified of the decision, unless Finance agrees to extend the application time. You should contact Finance if you wish to seek an extension.

Finance is required to make a review decision within 30 days. If Finance does not do so, the original decision is considered to be affirmed.

### How to apply for internal review

You must apply in writing and should include a copy of the notice of the decision provided and the points you are objecting and why.

You can lodge your application in writing through one of the contact details provided at the end of this document.

### Review by the Australian Information Commissioner (IC)

The IC is an independent office holder who can review the decisions of agencies and ministers under the FOI Act. The IC can review access refusal decisions (s 54L(2)(a) of the FOI Act), access grant decisions (s 54M(2)(a)), refusals to extend the period for applying for internal review under s 54B (s 54L(2)(c)), and agency internal review decisions under s 54C (ss 54L(2)(b) and 54M(2)(b)).

If you are objecting to a decision to refuse access to documents, impose a charge or refuse to amend a document, you must apply to the IC within 60 days of being given notice of the decision. If you are objecting to a decision to grant access to another person, you must apply within 30 days of being notified of that decision.

### Do I have to go through Finance's internal review process first?

No. You may apply directly to the IC. However, going through Finance's internal review process gives Finance the opportunity to reconsider its initial decision, and your needs may be met more quickly without undergoing an external review process.

### Do I have to pay?

No. Review by the IC is currently free.

### How do I apply?

You must apply for IC review in writing and you can lodge your application in one of the following ways:

**Post:** Office of the Australian Information  
Commissioner  
GPO Box 2999  
CANBERRA ACT 2601  
**Email:** [enquiries@oaic.gov.au](mailto:enquiries@oaic.gov.au)  
**Fax:** 02 9284 9666  
**In person:** Level 3  
175 Pitt Street  
SYDNEY NSW 2000

An electronic application form is also available on the OAIC's website ([www.oaic.gov.au](http://www.oaic.gov.au)). Your application should include a copy of the notice of the decision that you are objecting to (if one was provided), and your contact details. You should also set out why you are objecting to the decision.

#### ***Making a complaint***

You may make a written complaint to the IC about actions taken by Finance in relation to your application. However, if you are complaining that a Finance decision is wrong, it is treated as an application for review. For further information, see [FOI fact sheet 13 – Freedom of Information: How to make a complaint](#).

#### ***When can I go to the Administrative Appeals Tribunal (AAT)?***

Under the FOI Act, you must seek external review through the IC prior to applying to the AAT for such a review. The fee for lodging an AAT application is \$816 (from 1 July 2012), although there are exemptions for health care and pension concession card holders and the AAT can waive the fee on financial hardship grounds.

#### **Investigation by the Ombudsman**

The Commonwealth Ombudsman can also investigate complaints about action taken by

agencies under the FOI Act. However, if the issue complained about either could be or has been investigated by the IC, the Ombudsman will consult the Commissioner to avoid the same matter being investigated twice. If the Ombudsman decides not to investigate the complaint, then they are to transfer all relevant documents and information to the IC.

The IC can also transfer a complaint to the Ombudsman where appropriate. This could occur where the FOI complaint is only one part of a wider grievance about an agency's actions. It is unlikely that this will be common. You will be notified in writing if your complaint is transferred.

Applications to the Ombudsman should be directed to the following address:

**Post:** Commonwealth Ombudsman  
PO Box 442  
CANBERRA ACT 2601  
**Phone:** 02 6276 0111  
1300 362 072

#### **Finance FOI contact details**

FOI Coordinator  
Legal Services Branch  
Department of Finance and Deregulation  
John Gorton Building  
King Edward Terrace  
PARKES ACT 2600  
**Phone:** 02 6215 1783  
**Email:** [foi@finance.gov.au](mailto:foi@finance.gov.au)  
**Website:** [www.finance.gov.au/foi/foi.html](http://www.finance.gov.au/foi/foi.html)





