



Australian Government
Department of Finance

Reference: FOI 13/133
Contact: FOI Team
Telephone: 02 6215 1783
e-mail: foi@finance.gov.au

Jonathan Swan

via email: foi+request-451-43c72d83@righttoknow.org.au

Dear Mr Swan,

Freedom of Information Request – FOI13/133

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

- *Email and any other written communication between the office of the MP for Canning, Don Randall and the Department of Finance regarding his expenses and entitlements*
- *Documents covering a period from October 14 - October 20 (2013)*
- *In particular, I would like a copy of any advice the Department of Finance gave Mr Randall in regard to his trip to Cairns in November 2012 on "electorate business"*

Decision

In accordance with subsection 23(1) of the FOI Act, I am authorised to make a decision regarding access under the FOI Act.

I have decided to release one document, in part, with exempt material redacted under section 22 (irrelevant material) and section 47F (personal information).

The document is identified in the Schedule at [Attachment A](#).

Reasons for Decision

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

- the terms of your FOI request;
- the content of the document that falls within the scope of your request;
- the relevant provisions of the FOI Act;
- consultations with third parties, in accordance with the FOI Act, and submissions made by those third parties; 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 an edited copy of the document can be released to you under this category. In particular, I have decided to provide you with access to one document with exempt and irrelevant information redacted.

Irrelevant Material

The redacted information within the documents contains material that is irrelevant to your request. Specifically, internal Finance call report numbers and material that relates to employees other than the person whose details you specifically sought in your request.

Exempt Material

The redacted information within the documents contains material, such as bank details and personal phone numbers that I have determined to be exempt under section 47F of the FOI Act (personal privacy).

Section 47F – Personal Privacy

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 of the FOI Act, access must generally be given to a conditionally exempt document unless it would be contrary to the public interest.

For information to be conditionally exempt, I must first be satisfied that the information is personal information. If the document contains personal information, I must then address the issue of whether it would be unreasonable to disclose the 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’.

I am satisfied that the redacted material in the document identified at Attachment A contains matter that would involve the unreasonable disclosure of personal information about a person. It is quite clear that the names of junior employees, personal phone numbers and bank details contained in the document are personal information.

Having formed the view that the document is conditionally exempt under section 47F of the FOI Act, I am now required to consider whether disclosure of document would be unreasonable. I must have regard to the following:

- the nature of the information;
- 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 matters that the agency considers relevant.

The document contains personal information about individuals and release of the document would be likely to place stress on the individuals concerned. The information contained in the document was given in a context in which there was a reasonable expectation of privacy. I am satisfied that those parts of the documents, particularly bank details, are not publicly known and are considered a particularly sensitive category of personal information. It is reasonable to expect that this information is not available in publicly accessible sources and it may cause a breach in privacy should it be released. As such, I am of the view that the information deleted from the documents would be unreasonable to disclose.

In accordance with subsection 11B(3) of the FOI Act, I have considered factors favouring disclosure and am of the view that release of the document, in full, would not *further promote the objects of the Act, inform debate on a matter of public importance or promote effective oversight of public expenditure* any more than releasing the document with the irrelevant and exempt material redacted. As such, I have not given consideration to these factors favouring disclosure.

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 document contains personal information about third parties. Release of the document would be likely to place stress on the individuals concerned. The information contained in the document was given in a context in which there was a reasonable expectation of privacy and this information is not publicly known. I consider that the release of this information could reasonably be expected to prejudice the individual's right to privacy.

I also note that telephone numbers and bank details are a sensitive category of personal information. The information contained in the document was given in a context in which there was a reasonable expectation of privacy. As such, this is a strong factor against disclosure of the redacted information.

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

Given consideration of the matters above, I consider that release of the relevant information would reasonably prejudice the protection of the relevant individual's right to privacy.

In the circumstances, I have determined that the factors against disclosure outweigh the factors in favour of disclosure in relation to the relevant parts of the document. I consider the information redacted at Attachment A to be exempt from release on the basis of section 47F (personal information) of the FOI Act.

Charges

On 12 November 2013, Finance sent you an estimate of charges (\$30.80) in relation to the processing of your request. On 15 November 2013, Finance received payment of the full amount of charges. After reviewing the estimate of charges, provided to you on 12 November 2013, I can confirm that this represents the actual costs incurred to process your FOI request. As a result, there will be no change to the charge.

Review and Appeal Rights

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

As affected third parties have contended that the disclosure of their personal information would be unreasonable and objected to release of the document, I am required, in accordance with section 27A(2) of the FOI Act, to advise those parties of my decision to release parts of the documents and give them the opportunity to seek a review of the decision either by Finance or the Office of the Australian Information Commissioner (OAIC), insofar as those documents relate to them.

The third parties have 30 days in which to seek review or lodge an appeal. The document that I have decided to release cannot be released to you until this time period has expired, or where the third parties lodge an internal review or appeal to the OAIC, until that review or appeal has been completed.

The process for review and appeal rights is set out at Attachment B.

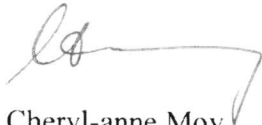
Publication

The FOI Act requires Commonwealth agencies to publish:


- information in documents to which the agency routinely gives access in response to FOI requests except where that information is exempt under the FOI Act; and
- information in documents released under the FOI Act.

If you have any questions, please do not hesitate to contact the FOI Team on the details indicated above.

Yours sincerely



Cheryl-anne Moy
First Assistant Secretary
Ministerial and Parliamentary Services

 January 2014

SCHEDULE OF DOCUMENTS RELEVANT TO FOI REQUEST No.13/133

Document No.	Date of Document	No. of Pages	Author	Addressee	Description of Document	Decision*
1	Various	4	Various	Various	Department of Finance call report, letter, copy of cheque and email.	Release in part. Exempt material redacted under section 47F and section 22. Not to be released until expiration of third party review rights.



Australian Government

Department of Finance

Freedom of Information – Your Review Rights

If you disagree with the decision made by the Department of Finance (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:



Australian Government
Department of Finance

Post: Office of the Australian Information
Commissioner
GPO Box 2999
CANBERRA ACT 2601

Email: 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). 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
John Gorton Building
King Edward Terrace
PARKES ACT 2600

Phone: 02 6215 1783

Email: foi@finance.gov.au

Website: www.finance.gov.au/foi/foi.html