

From: OAIC
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Subject: [OAICicon] ICON information session highlights and other news
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Recent IC review decisions

The Acting Australian Information Commissioner has recently issued the following Information Commissioner (IC) review decisions:

Elstone Pty Limited and Civil Aviation Safety Authority (Freedom of information) [2018] AICmr 52 (28 May 2018)

Access refusal – Documents relating to a complaint that was made against the applicant – Whether disclosure of the material would have a substantial adverse effect on the proper and efficient conduct of the operations of an agency – Whether disclosure is contrary to the public interest – ss 11A(5) and 47E(d) – Decision under review affirmed

'PC' and Australian Taxation Office (Freedom of information) [2018] AICmr 53 (30 May 2018)

Access refusal decision – Request for internal emails authored by ATO personnel – Whether disclosure would have a substantial adverse effect on the management or assessment of personnel – Whether disclosure is contrary to the public interest – ss 11A(5) and 47E(c) – Decision under review affirmed

The Australian and National Native Title Tribunal (Freedom of information) [2018] AICmr 54 (30 May 2018)

Access refusal decision – Request for documents relating to complaints made against a tribunal member – Whether disclosure would have a substantial

adverse effect on the management or assessment of personnel – Whether disclosure is contrary to the public interest – ss 11A(5) and 47E(c) – Decision under review affirmed

All [IC review decisions](#) are available on the OAIC website.

Decisions

Spotlight: FOI decisions and statements of reasons

The FOI Act specifies that a decision relating to a request made to an agency may be made by:

- the responsible minister
- the principal officer of the agency, or
- by officers who are properly authorised (s 23(1)).

Under the FOI Act, decision makers must give applicants a statement of reasons if they refuse any aspect of an FOI request, or defer access to documents (s 26(1)). The statement of reasons must include

- the decision
- the findings on any material questions of fact
- the evidence or other material on which those findings are based
- the reasons for the decision (including any public interest factors taken into account in deciding to refuse access to a conditionally exempt document)
- the name and designation of the person making the decision
- information about the applicant's rights to make a complaint or seek a review and the procedure for doing so (s 26(1)).

Information Commissioner Guidance

[Part 3 of the FOI Guidelines](#) provides guidance about when a statement of reasons is needed and what information needs to be provided – in particular, it is useful to note:

- While there is no specified form for a statement of reasons, where the request involves numerous documents or complex issues relating to exemptions, a statement of reasons and a schedule of documents attached to a letter to the applicant may be most appropriate [FOI Guidelines 3.168].
- The statement of reasons should show a rational connection between the findings of material fact, the decision maker's understanding of the relevant statutory provisions and the decision itself. It is not enough for the decision maker to state that he or she is satisfied that a document or parts of a document is exempt [FOI Guidelines 3.176].
- Where the decision relates to a document of an agency, the decision notice needs to include the name and designation of the person making the decision, including the decision maker's first name, surname and title, to clearly explain their authority to make the decision [FOI Guidelines 3.181].

The OAIC has also developed resources for agencies that give detailed advice to assist with FOI decision making. See in particular:

- [FOI agency resource 1: Twelve tips for FOI decision makers](#)
- [FOI agency resource 6: Making a decision on an FOI access request](#)
- [FOI agency resource 7: Statement of reasons checklist](#)
- [FOI agency resource 11: Sample FOI notices](#)

The OAIC is currently reviewing its guidance material for agencies. Please send any questions or comments regarding current material or suggestions for new material to xxxxx@xxxx.xxx.xx.

Update: Information Publication Scheme – 2018 Survey of Australian Government agencies

The 2018 Information Publication Scheme (IPS) Survey of Australian Government agencies that are subject to the *Freedom of Information Act 1982* (Cth) was launched on 29 May 2018.

The fieldwork for the IPS Survey will be conducted from 29 May until close of business 12 June 2018. ORIMA Research has sent each Australian Government agency a link to the online survey.

If you have any questions or require further information about the IPS Survey, please contact Mabel Dela Cruz of ORIMA Research on (02) 6109 6300 or xxxxxxx@xxxxx.xxx or OAIC contact officer Emma Liddle, Acting Director FOI on (02) 9284 9717 or xxxx.xxxxxx@xxxx.xxx.xx.

[Read more](#)

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The OAIC is looking for:

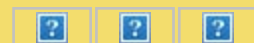
- Assistant Directors, Senior Review Officers and Senior Investigations Officers (EL1) to work in its FOI team and Privacy Dispute Resolution area
- Review and Investigation officers (APS 6) to work in its FOI team and Privacy Dispute Resolution area
- Advisers (APS 6) to work in its Regulation and Strategy Branch.

For more information and how to apply for the roles, please visit the [OAIC careers](#) page.

Current positions



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