

19 October 2018

Ben Fairless

By email: foi+request-4827-e023fae7@righttoknow.org.au

Dear Mr Fairless

**Freedom of Information Request –
Australia Post Reference FOI 088/2018**

Purpose

The purpose of this letter is to notify Australia Post's decision in response to your request for access to documents under the Freedom of Information Act 1982 ('**FOI Act**').

Your request for access was received by Australia Post on 21 September 2018, and sought documents in respect of the contractors engaged by Australia Post, specifically;

Documents which have been created in the last 12 months which detail

1. *The risks and benefits, if any, of using Contractors over using Employees.*
2. *The number of complaints received in relation to issuing of "sorry we missed you" cards (or similar), and any reporting completed by Australia Post which indicates if this practice is more widespread among contractors or employees.*
3. *The number of employees and contractors who have been subject to disciplinary action (including but not limited to warnings or termination of engagement).*
4. *A copy of the standard agreement that a contractor must enter to be a contractor for Australia Post or StarTrack.*

The decision following is in respect to Item 1, Item 2 and Item 4 of your request.

Decision

Australia Post's decision is that pursuant to section 7 of the FOI Act (read in conjunction with referencing Part II of Schedule 2 Act) your request is denied.

Reasons

Section 7 exempts Australia Post from the operation of the FOI Act in respect of documents in respect of its commercial activities.

According to Section 7(3), the term "*commercial activities*" in Part II of Schedule 2 means:

- a. *activities carried on by an agency on a commercial basis in competition with persons other than governments or authorities of governments; or*
- b. *activities, carried on by an agency that may reasonably be expected in the foreseeable future to be carried on by the agency on a commercial basis in competition with persons other than governments or authorities of governments.*

I am satisfied that all of Australia Post's activities in relation to Item 1, Item 2 and Item 4 of your request fall within the definition of "commercial activities".

The following decision is in respect to Item 3 of your request.

Decision

Pursuant to Section 47E of the FOI Act, your request is denied.

Reason

Documents relating to certain operations of agencies are conditionally exempt from release pursuant to Section 47E of the FOI Act.

Section 47E conditionally exempts a document if its disclosure would, or could reasonably be expected to:

(c) Have a substantial adverse effect on the management or assessment of personnel by the Commonwealth or by an Agency.....

(d) Have a substantial adverse effect on the proper and efficient conduct of the operations of an agency

Disclosure of documents matching the description of your request would or could reasonably be expected to have a substantial adverse effect on the proper and efficient conduct of the operations of agency. Also, disclosure of documents matching the description of your request could reasonably be expected to have a substantial adverse effect on the management or assessment of personnel by Australia Post.

In my opinion, disclosure of documents such as those to which you seek access could reasonably be expected to have a substantial adverse effect on the proper and efficient conduct of Australia Post recruitment operations (involving management or assessment of personnel), and on the proper and efficient conduct of the HR operations of Australia Post.

Public Interest Test

In my view no public interest would be served by disclosure of documents described in your request.

In balancing the public interest factors for and against disclosure, I give greater weight to the factors against disclosure. In particular, I consider that the public interest lies with protecting the relevant operations of Australia Post.

Accordingly, I have determined that granting access to the documents sought would be contrary to public interest.

Rights of Review

If you would like a review of the formal decision you have the right under law to seek either;

- (i) An internal review by writing within 30 days of receiving this letter to Australia Post, FOI Review Officer, Legal Services Group, GPO Box 1777, Melbourne VIC 3001, foi@auspost.com.au; or
- (ii) A review of this decision by writing within 60 days of receiving this letter to the Information Commissioner, GPO 5218, Sydney NSW 2001, Fax: 02 9284 9666, enquiries@oaic.gov.au.

Yours sincerely,

A handwritten signature in blue ink, appearing to be 'A. Oliver', written in a cursive style.

Anna Oliver
Freedom of Information Officer
Australia Post
foi@auspost.com.au