



Australian Government
Australian Public Service Commission

D Watson
By email: foi+request-4880-a8fd2cee@righttoknow.org.au

Reference: C19/396

Dear Sir / Madam

Freedom of information request

1. I refer to your request dated 7 February 2019 for access to documents under the *Freedom of Information Act 1982* (FOI Act).

Scope of your request

2. In your email message dated 7 February 2019, you requested access to documents in the following terms:

*“(4) Under the FOI Act, I seek access to any and all documents prepared and sent by the APSC for the purpose of consulting with affected third parties pursuant to section 27A of the FOI Act in respect of the FOI application set out here:
https://www.righttoknow.org.au/request/hadgkiss_and_lloyd*

(5) I agree to the personal information of any person who is not an APSC employee to be redacted from the relevant documents.”

3. The earlier FOI request you refer to in your FOI request was made by D Kemp through the Right to Know website.

Documents relevant to your FOI request

4. I have identified the following three documents relevant to your request:

Document	Description
1	Email message dated 6 August 2018 addressed to John Lloyd.
2	Email message dated 7 August 2018 addressed to Nigel Hadgkiss.
3	Email message dated 20 September 2018 addressed to Mr Hadgkiss.

5. Document 2 was an email message with an attachment. The attachment to Document 2 was a file comprising documents that were within scope of the earlier FOI request. The

purpose of the email message of Document 2 was to consult Mr Hadgkiss about disclosure of his personal information in the documents attached to the email message.

6. I note that you have excluded personal information of third parties from the scope of your request. Further, it is apparent that your interest is in documents showing the process of consultation with third parties undertaken by the Commission in respect of the earlier FOI request. It does not appear your intention was to re-request access to the documents that were subject to the earlier FOI request. For these reasons, I have not construed your request as extending to the documents that were in the attachment to Document 2.

Consultation with third parties

7. In light of your clear interest in the consultation processes undertaken by this agency, the following information is provided as a courtesy. In respect of your present FOI request, you were notified that this agency was consulting with third parties about disclosure of their personal information. Those third parties were non-SES employees of the Commission.
8. The usual practice of this agency is to treat the personal information of non-SES employees as being irrelevant to the scope of an FOI request unless such information is specifically requested. In the present case you made it clear that it was your intention for your request to cover the personal information of any employee of the Commission. Consequently, it was necessary to consult non-SES employees of the Commission about disclosure of their personal information.

Decision on your FOI request

9. This letter sets out my decision on your request for access to documents under the FOI Act. I am an officer authorised under subsection 23(1) of the FOI Act to make decisions in relation to FOI requests.
10. I have identified three documents relevant to your FOI request. These documents are set out in the table at paragraph four above.
11. Subject to the deletion of irrelevant material, I have decided to grant you full access to the documents you have requested. A copy of the documents is attached.

Deletion of exempt matter or irrelevant material

12. Section 22 of the FOI Act requires an agency to provide access to an edited version of a document where it is reasonably practicable to edit the document to remove exempt material or material that is irrelevant to the scope of a request.
13. I have attached to this letter copies of documents relevant to your request. These documents have been edited to remove material that is irrelevant to the scope of your request. In particular, you excluded from the scope of your request personal information of any person who is not an employee of the Commission.

Review rights

14. You are entitled to seek review of this decision. Your review rights are set out at **Attachment A**.

Publication

15. The Commission must publish information relating to material that has been released in response to each FOI access request. This publication is known as a 'disclosure log'.
16. The disclosure log requirement does not apply to personal information about any person if it would be unreasonable to publish the information or to information about the business, commercial, financial or professional affairs of any person if publication of that information would be unreasonable.
17. The Commission is not required to consult you on any decision to publish information that is released to you and the decision to publish information is not subject to review internally by the Commission or externally by the Australian Information Commissioner. Any person can however, make a complaint to the Australian Information Commissioner about how an agency handles an FOI request.

Contacts

18. If you require clarification of any of the matters in this letter you may contact the Commission's FOI co-ordinator by telephone on (02) 6202 3858 or by email at foi@apsc.gov.au.

Yours sincerely



Sayuri Grady
Authorised FOI decision maker

28 March 2019

Rights of Review

Asking for a full explanation of a Freedom of Information decision

If you are dissatisfied with this decision, you may seek review. Before you seek review of an FOI decision, you may contact us to discuss your request and we will explain the decision to you.

Seeking review of a Freedom of Information decision

If you still believe a decision is incorrect, the *Freedom of Information Act 1982* (FOI Act) gives you the right to apply for a review of the decision. Under sections 54 and 54L of the FOI Act, you can apply for a review of an FOI decision by seeking:

1. an internal review by an different officer of the Australian Public Service Commission, and/or
2. external review by the Australian Information Commissioner.

There are no fees applied to either review option.

Applying for a review by an Internal Review Officer

If you apply for internal review, a different decision maker to the departmental delegate who made the original decision will carry out the review. The Internal Review Officer will consider all aspects of the original decision and decide whether it should change. An application for internal review must be made in writing within 30 days of receiving this letter to:

Email: foi@apsc.gov.au

Post: The FOI Coordinator
 Australian Public Service Commission
 B Block, Treasury Building
 GPO Box 3176
 Parkes Place West
 PARKES ACT 2600

You do not need to fill in a form. However, it is a good idea to set out any relevant submissions you would like the Internal Review Officer to further consider, and your reasons for disagreeing with the decision.

Applying for external review by the Australian Information Commissioner

If you do not agree with the original FOI decision or the internal review decision, you can ask the Australian Information Commissioner to review the decision. You have 60 days to apply in writing for a review by the Office of the Australian Information Commissioner (OAIC) from the date you received this letter or any subsequent internal review decision.

You can **lodge your application:**

Online: www.oaic.gov.au
Post: Australian Information Commissioner
GPO Box 5218
SYDNEY NSW 2001
Email: enquiries@oaic.gov.au

The OAIC encourage applicants to apply online. Where possible, to assist the OAIC you should include your contact information, a copy of the related FOI decision and provide details of your reasons for objecting to the decision.

Complaints to the Information Commissioner and Commonwealth Ombudsman

Information Commissioner

You may complain to the Information Commissioner concerning action taken by an agency in the exercise of powers or the performance of functions under the FOI Act. There is no fee for making a complaint. A complaint to the Information Commissioner must be made in writing. The Information Commissioner's contact details are:

Telephone: 1300 363 992

Website: www.oaic.gov.au

Commonwealth Ombudsman

You may complain to the Ombudsman concerning action taken by an agency in the exercise of powers or the performance of functions under the FOI Act. There is no fee for making a complaint. A complaint to the Ombudsman may be made in person, by telephone or in writing. The Ombudsman's contact details are:

Phone: 1300 362 072

Website: www.ombudsman.gov.au

From: FOI
To: LLOYD, John
Cc: KELLY, Clare
Subject: re: Commissioner - Formal Consultation your personal information - s 27A of FOI Act C18/1318 [DLM=Sensitive:Personal]
Date: Monday, 6 August 2018 12:37:37 PM

Sensitive: Personal

Sensitive: Personal

FOI Reference: C18/1318

Good afternoon Commissioner (John)

The APSC has received a request under the FOI Act, seeking access to documents relating to correspondence between yourself and Mr Nigel Hadgkiss.

Consultation about disclosure of your personal information/opinion

The purpose of this correspondence is to consult with you regarding potential disclosure of your personal information in the document, under FOI.

I will bring a hard copy of the documents up to your office, which contain your personal information, or to which you have authored in your personal capacity.

Please consider whether you object to disclosure of the material which has not been marked for redaction. I invite you to make submissions regarding the application of any applicable exemptions from release under the FOI Act. Any submissions you make will be considered by the decision-maker before a decision is made whether to release the document in whole, or in part.

The consultation process

The FOI Act contains a number of provisions that provide for the exemption of a document, in whole or in part. These restrictions on disclosure are found at Part IV of the FOI Act. We encourage you to consider, and provide commentary on any exemption you consider to be relevant to a determination on the release of the document. Such commentary may provide insight to the decision-maker on unknown sensitivities. Particularly, we seek your comments as to whether the disclosure of the documents would involve the unreasonable disclosure of your personal information. If you consider that the release would be unreasonable, in whole or in part, please provide your reasons for this conclusion.

Where it is appropriate to do so, the APSC will prepare an edited version of a document, so as to delete the exempt material and provide release of the remainder. Please strongly consider whether such redaction of sensitive material, relating to your personal information or otherwise, may eliminate or reduce any concerns you hold regarding release. The APSC notes that total exemption claims over entire documents is unlikely to be sustained, particularly where an applicant seeks internal or external review of such decision.

Where submissions are made, you have a right to seek a review of any decision by the APSC, if the decision is made to grant access to the documents, against your contentions. These review rights only extend to contentions made in relation to your personal information, and not to the application of any other exemption. Further information as to your rights of review will be provided in the event that the decision-maker does not accept your objections (relating to personal privacy) in full.

Contacts

If you require clarification or wish to discuss the content of this email please do not hesitate to contact me. I look forward to receiving your comments if possible by COB Thursday 9th August 2018.

Kind regards

Karen Tulloch | FOI Coordinator

Legal Services

Australian Public Service Commission

Level 4, B Block, Treasury Building

Parkes Place West, Parkes ACT 2600

P: 02 6202 3707 | **E:** karen.tulloch@apsc.gov.au

NB: I work from Monday to Thursdays.

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From: FOI
To: s.22
Subject: s27A Consultation - FOI Request C18/1318 [SEC=UNCLASSIFIED]
Date: Tuesday, 7 August 2018 1:43:28 PM
Attachments: 1 Nigel Hadgkiss docs s27a consultation.pdf

UNCLASSIFIED

FOI Reference: C8/1318

Good afternoon Mr Hadgkiss

The Australian Public Service Commission (APSC) has received a request under the *Freedom of Information Act 1982* (FOI Act), seeking access to certain documents. The scope of the request covers specific documents, detailing communications between yourself and the Hon John Lloyd, PSM, Australian Public Service Commissioner.

Consultation about disclosure of your personal information/opinion

The purpose of this correspondence is to consult with you regarding potential disclosure of your personal information in the attached documents, under FOI.

I have considered that your personal contact information should be exempt, and have therefore proposed for that information to be redacted, as highlighted by red outlined areas in the documents.

Please advise whether you object to the disclosure of the remaining content of the documents. If you wish to object, I invite you to make submissions relaying your objections. Any submissions you make will be considered by the decision-maker before a decision is made whether to release the document in whole, or in part.

The consultation process

The FOI Act contains a number of provisions that provide for the exemption of a document, in whole or in part. These restrictions on disclosure are found at Part IV of the FOI Act. We encourage you to consider, and provide commentary on any exemption you consider to be relevant to a determination on the release of the document. Such commentary may provide insight to the decision-maker on unknown sensitivities.

Particularly, we seek your comments as to whether the disclosure of the documents would involve the unreasonable disclosure of your personal information. If you consider that the release would be unreasonable, in whole or in part, please provide your reasons for this conclusion.

Where it is appropriate to do so, the APSC will prepare an edited version of the documents, so as to delete the exempt material and provide release of the remainder. Please strongly consider whether such redaction of sensitive material, relating to your personal information or otherwise, may eliminate or reduce any concerns you hold regarding such release. The APSC notes that total exemption claims over entire documents are unlikely to be sustained, (with the exception of those pages number 126-132) particularly if an applicant seeks internal or external review through the Office of the Australian Information Commissioner.

Rights of review

Where submissions are made, you have a right to seek review of a decision by the APSC, if the decision is made to grant access to the documents, against your wishes. These review rights only extend to contentions made in relation to your personal information, and not to the application of any other exemption. Further information as to your rights of review will be provided in the event that the decision-maker does not accept your objections (relating to personal privacy).

Contacts

If you require clarification or wish to discuss the content of this email please do not hesitate to

contact me. I look forward to receiving your comments if possible by **COB Thursday 16th August 2018.**

Kind regards

Karen Tulloch | FOI Coordinator

Legal Services

Australian Public Service Commission

Level 4, B Block, Treasury Building

Parkes Place West, Parkes ACT 2600

P: 02 6202 3707 | **E:** karen.tulloch@apsc.gov.au

NB: I work from Mondays to Thursdays.

From: FOI
To: "Nigel Hadgkiss"
Subject: RE: Update - s27A Consultation - FOI Request C18/1318 [SEC=UNCLASSIFIED]
Date: Thursday, 20 September 2018 10:43:52 AM

UNCLASSIFIED

Good morning Mr Hadgkiss,
Thank you for your email below. s.22

s.22



If you have any questions about the FOI process, please do not hesitate to contact our office.

Kind regards

Karen Tulloch | FOI Coordinator

Assistant Director | Legal Services
Australian Public Service Commission
Level 4, B Block, Treasury Building
Parkes Place West, Parkes ACT 2600

P: 02 6202 3707 | E: karen.tulloch@apsc.gov.au

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From: Nigel Hadgkiss

Sent: Thursday, 16 August 2018 6:02 PM

To: FOI

Subject: RE: s27A Consultation - FOI Request C18/1318 [SEC=UNCLASSIFIED]

Dear Karen

s.22



s.22



Regards,
Nigel Hadgkiss

From: FOI

Sent: Tuesday, August 7, 2018 1:44 PM

To: s.22

Subject: s27A Consultation - FOI Request C18/1318 [SEC=UNCLASSIFIED]

UNCLASSIFIED

FOI Reference: C8/1318

Good afternoon Mr Hadgkiss

The Australian Public Service Commission (APSC) has received a request under the *Freedom of Information Act 1982* (FOI Act), seeking access to certain documents. The scope of the request covers specific documents, detailing communications between yourself and the Hon John Lloyd, PSM, Australian Public Service Commissioner.

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Contacts

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Kind regards

Karen Tulloch | FOI Coordinator

Legal Services

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