



Australian Government

Office of the Australian Information Commissioner

Our reference: FOIREQ18/00166

Ms Verity Pane

By email: foi+request-4911-6d658932@righttoknow.org.au

Your Freedom of Information request – Decision on access

Dear Ms Pane,

I refer to your request for access to documents, made under the *Freedom of Information Act 1982* (Cth) (the FOI Act) and received by the Office of the Australian Information Commissioner (OAIC) on 25 October 2018.

You have sought access to:

I seek copy under FOI of the OAIC policy regarding gifts and copy of the FY17/18 Gift Register.

Decision

I am an officer authorised under s 23(1) of the FOI Act to make decisions in relation to FOI requests.

I have identified eight documents within the scope of your request. I have decided to grant you access to four documents in full. I have decided to grant you access to four documents in part, with exempt material deleted under s 47F of the FOI Act.

A schedule describing each document and the access decision I have made is at Appendix A to this decision.

Reasons for decision

Material taken into account

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

- your freedom of information request of 25 October 2018
- the documents at issue
- the FOI Act, in particular ss 11A(5) and 47F

- the Guidelines issued by the Australian Information Commissioner under s 93A of the FOI Act to which regard must be had in performing a function or exercising a power under the FOI Act (the FOI Guidelines), particularly at [6.1]-[6.27] and [6.124]-[6.157]

Personal privacy conditional exemption s 47F

I have decided that documents 1, 2, 4 and 7 are conditionally exempt in part under s 47F of the FOI Act. The relevant material is the names of the individuals who offered the gift or benefit to an OAIC officer.

Section 47F of the FOI Act conditionally exempts documents where disclosure would involve the unreasonable disclosure of personal information of any person (including a deceased person). This exemption is intended to protect the personal privacy of individuals.

Personal information means:

Information or an opinion about an identified individual, or an individual who is reasonably identifiable:

- a) Whether the information or opinion is true or not; and
- b) Whether the information or opinion is recorded in a material form or not

I am satisfied that the names of the relevant individuals is personal information for the purposes of the FOI Act.

In determining whether disclosure of personal information would be unreasonable, s 47F(2) of the FOI Act requires me to have regard to the following matters:

- 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 publically accessible sources
- any other matters I consider relevant.

Based on internet searches, I am satisfied that the persons to whom the information relates are not known to be associated with the matters dealt with in the document and the information is not available from publically accessible sources.

I am therefore satisfied that the names of the individuals who offered the gift or benefit to an OAIC officer, are conditionally exempt under s 47F of the FOI Act.

Public interest test (s 11A (5))

Under s 11A(5) access must be given to a conditionally exempt document unless in the circumstances giving access would, on balance, be contrary to the public interest.

The public interest factor that would favour disclosure is that the disclosure would promote the objects of the FOI Act.

Against this factor, I consider that the specific harm in disclosing an individual's name without agreement, and where this information has not been previously disclosed, would be an interference with an individual's right to privacy.

In considering where the public interest lies, I must consider the factors that favour disclosure balanced against the factors that favour non-disclosure.

On balance, I find that the factor against disclosure, that is, that disclosure could reasonably be expected to interfere with an individual's right to privacy, outweighs the factor in favour of disclosure. Therefore I have determined that disclosing the information, conditionally exempt under s 47F of the FOI Act, would be contrary to the public interest.

Yours sincerely,



Megan McKenna

FOI Officer
Legal Services

26 November 2018

If you disagree with my decision

Internal review

You have the right to apply for an internal review of my decision under Part VI of the FOI Act. An internal review will be conducted, to the extent possible, by an officer of the OAIC who was not involved in or consulted in the making of my decision. If you wish to apply for an internal review, you must do so in writing within 30 days. There is no application fee for internal review.

If you wish to apply for an internal review, please mark your application for the attention of the FOI Coordinator and state the grounds on which you consider that my decision should be reviewed.

Further Review

You have the right to seek review of this decision by the Information Commissioner and the Administrative Appeals Tribunal (AAT).

You may apply to the Information Commissioner for a review of my decision (IC review). If you wish to apply for IC review, you must do so in writing within 60 days. Your application must provide an address (which can be an email address or fax number) that we can send notices to, and include a copy of this letter. A request for IC review can be made in relation to my decision, or an internal review decision.

It is the Information Commissioner's view that it will usually not be in the interests of the administration of the FOI Act to conduct an IC review of a decision, or an internal review decision, made by the agency that the Information Commissioner heads: the OAIC. For this reason, if you make an application for IC review of my decision, it is likely that the Information Commissioner will decide (under s 54W(b) of the FOI Act) not to undertake an IC review on the basis that it is desirable that my decision be considered by the AAT.

Section 57A of the FOI Act provides that, before you can apply to the AAT for review of an FOI decision, you must first have applied for IC review.

Applications for internal review or IC review can be submitted to:

Office of the Australian Information Commissioner

GPO Box 5218

SYDNEY NSW 2001

Alternatively, you can submit your application by email to foi@oaic.gov.au, or by fax on 02 9284 9666.

Accessing your information

If you would like access to the information that we hold about you, please contact FOIDR@oaic.gov.au. More information is available on the [Access our information](#) page on our website.

Disclosure log

Section 11C of the FOI Act requires agencies to publish online documents released to members of the public within 10 days of release, except if they contain personal or business information that it would be unreasonable to publish.

The documents I have decided to release to you do not contain business or personal information that would be unreasonable to publish. As a result, the documents will be published on our disclosure log shortly after being released to you.



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Appendix A: Schedule of documents – Freedom of Information request no FOIREQ18/00166

Document no.	Date	Description	Decision on access	Exemption
1	13 July 2017	Record of gift or benefit offered to the Office of the Australian Information Commissioner	Release in part	47F
2	13 July 2017	Record of gift or benefit offered to the Office of the Australian Information Commissioner	Release in part	47F
3	13 September 2017	Record of gift or benefit offered to the Office of the Australian Information Commissioner	Release in full	

4	31 October 2017	Record of gift or benefit offered to the Office of the Australian Information Commissioner	Release in part	47F
5	3 November 2017	Record of gift or benefit offered to the Office of the Australian Information Commissioner	Release in full	
6	17 November 2017	Record of gift or benefit offered to the Office of the Australian Information Commissioner	Release in full	
7	21 December 2017	Record of gift or benefit offered to the Office of the Australian Information Commissioner	Release in part	47F

8	January 2017	Office of the Australian Information Commissioner Gift Policy	Release in full	
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