



Administrative Appeals Tribunal

FOI ref: 2020/0085

28 August 2020

Mr John Smith

By email: foi+request-6572-9713b7ec@righttoknow.org.au

Dear Mr Smith,

Notice of Decision for Freedom of Information Request no. 2020/0085

The purpose of this letter is to give you a decision about access to documents that you have requested under the *Freedom of Information Act 1982 (FOI Act)*.

Summary

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

You lodged an FOI request on 3 August 2020 for access to:

*A document that contains a list of all the position/job titles of every non-APS contractor working within your department.
e.g. a position title may be: 'security guard', or 'consultant', or 'APS3 FOI officer', etc.*

You may omit repeating a position title when there exist multiple contractors who have that position title. Additionally, if it would not be too onerous, please indicate the number of contractors that hold each position title.

If no such document exists please produce a document containing the information under s17.

Searches

As the requested information does not already exist in a discrete document, I have processed your request under section 17 of the FOI Act. This means that I have used our existing computer systems to retrieve data to produce a written document for you.

The document released to you lists all non-APS staff *currently* working at the AAT, as at 17 August 2020. Each line in the table represents one non-APS employee.

Decision

I have decided to release this document **in part**.

I have taken the following into account in making my decision:

- your email received on 3 August 2020;
- the FOI Act, specifically sections 11A, 22 and 47F;
- the guidelines issued by the Australian Information Commissioner under s 93A of the FOI Act.

Reasons for my decision

Section 47F of the FOI Act – Personal privacy

Section 47F of the FOI Act provides that a document is conditionally exempt if its disclosure would involve the unreasonable disclosure of personal information about any person.

For the purposes of the FOI Act, *personal information* has the same meaning as in the *Privacy Act 1988* and includes information or an opinion about an individual who is reasonably identifiable, whether or not the information or opinion is true.

In determining whether the disclosure of the document would be unreasonable, I have had 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 publicly accessible sources;
- any other relevant matters.

The document contains a list of all non-APS staff currently working at the AAT. Each position title contained in the document reflects one contractor. In some cases, the document contains multiple positions with the same position title (for example Tribunal Service Officer). In these circumstances, it is not possible to identify any particular individual as there are multiple individuals who fill these roles. However, there are some position titles contained in the document which are filled by only one individual, whether a contractor or not. Given that those positions are filled by an identifiable individual and the information that the person is a contractor is personal information, I have decided that section 47F of the FOI Act is relevant. This is because, if this information is read in combination with other information, for example an organisation chart accessible to colleagues, it could reasonably enable the individuals to be identified.

The information is not well known or publicly available and the individuals who own the information would have a reasonable expectation that their right to personal privacy

would be respected and that their personal information would not be disseminated to third parties. I am therefore satisfied that the information is conditionally exempt under section 47F of the FOI Act.

Public interest test – Section 11A(5) of the FOI Act

As the information is conditionally exempt, I have considered whether access to the information would, on balance, be contrary to the public interest.

A relevant public interest factor I have considered which favours disclosure is the promotion of the objects of the FOI Act, through facilitating and promoting public access to information held by government. A relevant factor against disclosure is that releasing the information would prejudice the individuals' right to privacy.

On balance, I consider that the benefits of protecting the individuals' privacy must be given greater weight, particularly in circumstances where the personal information does not appear to be publicly available. I find that disclosure of the information would be contrary to the public interest under section 11A (5) of the FOI Act.

An edited copy of the document has been released to you with exempt information redacted pursuant to section 22 of the FOI Act.

Your review rights

Information about how you can apply for a review of this decision or complain about how we have dealt with this matter is set out in the attached fact sheet, FOI 2.

If you have any questions about this decision, please contact me at foi@aat.gov.au.

Yours sincerely,

Skye M

Authorised FOI Officer (APS 6)

Attachments

FOI 2 – Information about reviews and complaints under the Freedom of Information Act

List of contractors currently working at the AAT, as at 17 August 2020

Information about reviews and complaints under the Freedom of Information Act

What should I do prior to applying for internal review or contacting the Office of the Australian Information Commissioner?

Before you apply for an internal review or contact the Office of the Australian Information Commissioner, we recommend that you telephone the officer who made the FOI decision. It is often possible to resolve concerns or answer your questions using this approach and, if not, the officer will be able to assist you in applying for review.

How do I apply for internal review to the AAT?

You can apply to us for an internal review of the FOI decision. The application for internal review must be made within 30 days or such further period as we allow, after the day the decision is notified to you. To apply for an internal review you must do so in writing. You may also wish to explain why you are not satisfied with the decision. A different and more senior officer authorised under the *Freedom of Information Act 1982* (the FOI Act) will conduct the internal review and make a new decision within 30 days after receipt of your application.

If you have already applied for internal review and want to seek a further review of that decision, you will need to apply to the Australian Information Commissioner.

How do I apply for review to the Australian Information Commissioner?

You may also apply directly to the Australian Information Commissioner for review of the FOI decision. The application for review must be made within 60 days after the day notice of the decision was given. An application for review must be in writing, include details of how notices in relation to the review are to be sent to you and include a copy of the decision. You may also wish to explain why you are not satisfied with the decision. An online application form is available on the Office of the Australian Information Commissioner's website, details of which are provided below.

What if I want to make a complaint about the handling of a Freedom of Information request?

If you have a complaint about the way in which we have processed your request for access under the FOI Act you can ask the Australian Information Commissioner to investigate. An online complaint form is available on the Office of the Australian Information Commissioner's website, details of which are provided below.

Where can I find further information or contact details for the Office of the Australian Information Commissioner?

Further information is available on the Office of the Australian Information Commissioner's website at www.oaic.gov.au and you can contact the office on 1300 363 992 or by email at enquiries@oaic.gov.au.