



Decision and Statement of Reasons made under the *Freedom of Information Act 1982*

Decision and reason for decision of Jess (Position Number 62227602), Information Law Section, Legal Services and Audit Branch, Department of Veterans' Affairs

Applicant: Dr Susan Kellett

Decision date: 5 November 2020

FOI reference number: FOI 38505

Sent by email: foi+request-6784-e87276cf@righttoknow.org.au

Dear Dr Kellett,

Freedom of Information Request: FOI 38505

Decision

1. The Department of Veterans' Affairs (**Department**) undertook a reasonable search of its records and identified four (4) documents relevant to your request.
2. As these documents would usually be publically available, I have made the decision to grant access in full to the documents falling within the scope of your request.
3. The documents that I released to you in full by email on 21 October 2020, are set out in **Schedule 1**.

Authority to make decision

4. I, Jess (Position Number 62227602), Information Access Officer, Information Law Section, am an officer authorised by the Secretary of the Department to make decisions about access to documents in the possession of the Department in accordance with section 23(1) of the *Freedom of Information Act 1982 (FOI Act)*.

Summary

5. On 6 October 2020 you made a request for access to documents in the possession of the Department. Your request sought access to:

“...copies of the minutes of the Ex-Service Organization Round Table (ESORT) for meeting dates: 2 August 2012; 27 March 2013; 14 May 2013; and 14 November 2013...”

6. We identified the documents and were able to provide a copy to you administratively via email to you on 21 October 2020. As the documents were issued under Administrative Access, we requested that you consider withdrawing your FOI request. Because we did not receive that confirmation, I am required to process your request under the FOI Act and issue a formal Statement of Reasons.
7. As no extensions of time have been applied to process your request, a decision on your request is due by COB 5 November 2020.

Material taken into account

8. In accordance with section 26(1)(a) of the FOI Act, my findings on any material question of fact, the material on which those findings were based and the reasons for my decision to grant full access to the documents follows.
9. I have taken the following material into account in making my decision:
 - the terms of your request;
 - the types of information and documents that are in the Department’s possession;
 - the content of the documents that fall within the scope of your request;
 - Sections 3, 11 and 11A of the FOI Act which give the Australian community a legally enforceable right to obtain access to information held by the Government of the Commonwealth;
 - the following provision of the FOI Act relevant to my decision:
 - Section 15 of the FOI Act which outlines requirements for requests for access
 - Section 23 of the FOI Act which outlines who is authorised to make decisions

- the Guidelines issued by the Australian Information Commissioner under section 93A of the FOI Act (FOI Guidelines).

10. A full extract of all FOI Act provisions used to make my decision are provided in **Schedule 2**.

Access to documents

11. The documents released to you in accordance with the FOI Act are enclosed.

Information Publication Scheme

12. The Information Publication Scheme requires the Department to publish information released in response to individual requests made under the FOI Act, except in specified circumstances.

13. I am of the view that details of your request should be made available on the Department's FOI Disclosure Log. As such, details of your request will be published on the Department's FOI Disclosure Log which can be accessed at <http://www.dva.gov.au/about-dva/freedom-information/foi-disclosure-log>. Please note that the Department does not publish details of FOI applicants, it only publishes details of the FOI request and the documents released in response to the request.

Your rights of review

14. If you are dissatisfied with my decision, you may apply for internal review or request the Office of the Australian Information Commissioner (**OAIC**) review my decision. We encourage you to seek internal review as a first step as it may provide a more rapid resolution of your concerns.

Internal review

15. Under section 54 of the FOI Act, you may apply in writing to the Department for an Internal Review of my decision. The Internal Review application must be made within 30 days of the date of this letter. Where possible please attach reasons why you believe review of the decision is necessary. The internal review will be carried out by another officer within 30 days.

16. You can make your application for Internal Review in one of the following ways:

Post: Information Law Section, Legal Services and Audit Branch
Department of Veterans' Affairs
GPO Box 9998, Canberra ACT 2601

Facsimile: (02) 6289 6337
Email: Information.Law@dva.gov.au

OAIC review

17. Under section 54L of the FOI Act, you may apply to the OAIC to review my decision. An application for review by OAIC must be made in writing within 60 days of the date of this letter, and be lodged in one of the following ways:

Online: www.oaic.gov.au
Post: Office of the Australian Information Commissioner
GPO Box 5218, Sydney NSW 2001
Facsimile: (02) 9284 9666
Phone: 1300 363 992
Email: FOIDR@oaic.gov.au

18. More information about your review rights under the FOI Act is available on the OAIC website: <https://www.oaic.gov.au/freedom-of-information/reviews-and-complaints/>

Contact us

19. If you wish to discuss this decision, or seek further information, please do not hesitate to contact the Information Law Section or visit our website using the following details:

Online: <https://www.dva.gov.au/about-us/overview/reporting/freedom-information/access-information>
Post: Information Law Section, Legal Services and Audit Branch
Department of Veterans' Affairs
GPO Box 9998, Canberra ACT 2601
Facsimile: (02) 6289 6337
Phone: 1800 838 372
Email: Information.Law@dva.gov.au

Yours sincerely,

Jess (Position Number 62227602)

Information Access Officer
Information Law Section
Legal Services and Audit Branch
5 November 2020



Schedule of documents

Applicant: Dr Susan Kellett

Decision date: 5 November 2020

FOI reference number: FOI 38505

Doc No.	Date of document	Document description	Pages	Decision	Exemption provision
1	20/10/2020	ESO Round Table - summary of meeting 2 August 2012 - Department of Veterans' Affairs	4	Full access	N/A
2	20/10/2020	ESO Round Table - summary of meeting 27 March 2013 - Department of Veterans' Affairs	4	Full access	N/A
3	20/10/2020	ESO Round Table - summary of meeting 14 May 2013 - Department of Veterans' Affairs	4	Full access	N/A
4	20/10/2020	ESO Round Table - summary of meeting 14 November 2013 - Department of Veterans' Affairs	5	Full access	N/A



Schedule of relevant provisions in the FOI Act

3 Objects—general

- (1) The objects of this Act are to give the Australian community access to information held by the Government of the Commonwealth or the Government of Norfolk Island, by:
 - (a) requiring agencies to publish the information; and
 - (b) providing for a right of access to documents.
- (2) The Parliament intends, by these objects, to promote Australia's representative democracy by contributing towards the following:
 - (a) increasing public participation in Government processes, with a view to promoting better informed decision-making;
 - (b) increasing scrutiny, discussion, comment and review of the Government's activities.
- (3) The Parliament also intends, by these objects, to increase recognition that information held by the Government is to be managed for public purposes, and is a national resource.
- (4) The Parliament also intends that functions and powers given by this Act are to be performed and exercised, as far as possible, to facilitate and promote public access to information, promptly and at the lowest reasonable cost.

11 Right of access

- (1) Subject to this Act, every person has a legally enforceable right to obtain access in accordance with this Act to:
 - (a) a document of an agency, other than an exempt document; or
 - (b) an official document of a Minister, other than an exempt document.
- (2) Subject to this Act, a person's right of access is not affected by:
 - (a) any reasons the person gives for seeking access; or
 - (b) the agency's or Minister's belief as to what are his or her reasons for seeking access.

11A Access to documents on request

Scope

- (1) This section applies if:
 - (a) a request is made by a person, in accordance with subsection 15(2), to an agency or Minister for access to:
 - (i) a document of the agency; or
 - (ii) an official document of the Minister; and
 - (b) any charge that, under the regulations, is required to be paid before access is given has been paid.
- (2) This section applies subject to this Act.

Note: Other provisions of this Act are relevant to decisions about access to documents, for example the following:

- (a) section 12 (documents otherwise available);
- (b) section 13 (documents in national institutions);

- (c) section 15A (personnel records);
- (d) section 22 (access to edited copies with exempt or irrelevant matter deleted).

Mandatory access—general rule

- (3) The agency or Minister must give the person access to the document in accordance with this Act, subject to this section.

Exemptions and conditional exemptions

- (4) The agency or Minister is not required by this Act to give the person access to the document at a particular time if, at that time, the document is an exempt document.

Note: Access may be given to an exempt document apart from under this Act, whether or not in response to a request (see section 3A (objects—information or documents otherwise accessible)).

- (5) The agency or Minister must give the person access to the document if it is conditionally exempt at a particular time unless (in the circumstances) access to the document at that time would, on balance, be contrary to the public interest.

Note 1: Division 3 of Part IV provides for when a document is conditionally exempt.

Note 2: A conditionally exempt document is an exempt document if access to the document would, on balance, be contrary to the public interest (see section 31B (exempt documents for the purposes of Part IV)).

Note 3: Section 11B deals with when it is contrary to the public interest to give a person access to the document.

- (6) Despite subsection (5), the agency or Minister is not required to give access to the document at a particular time if, at that time, the document is both:
 - (a) a conditionally exempt document; and
 - (b) an exempt document:
 - (i) under Division 2 of Part IV (exemptions); or
 - (ii) within the meaning of paragraph (b) or (c) of the definition of exempt document in subsection 4(1).

15 Requests for access (as related to the requirements for requests)

Persons may request access

- (1) Subject to section 15A, a person who wishes to obtain access to a document of an agency or an official document of a Minister may request access to the document.

Requirements for request

- (2) The request must:
 - (a) be in writing; and
 - (aa) state that the request is an application for the purposes of this Act; and
 - (b) provide such information concerning the document as is reasonably necessary to enable a responsible officer of the agency, or the Minister, to identify it; and
 - (c) give details of how notices under this Act may be sent to the applicant (for example, by providing an electronic address to which notices may be sent by electronic communication).
- (2A) The request must be sent to the agency or Minister. The request may be sent in any of the following ways:
 - (a) delivery to an officer of the agency, or a member of the staff of the Minister, at the address of any central or regional office of the agency or Minister specified in a current telephone directory;
 - (b) postage by pre-paid post to an address mentioned in paragraph (a);

- (c) sending by electronic communication to an electronic address specified by the agency or Minister.

23 Decisions to be made by authorised persons

- (1) Subject to subsection (2), a decision in respect of a request made to an agency may be made, on behalf of the agency, by the responsible Minister or the principal officer of the agency or, subject to the regulations, by an officer of the agency acting within the scope of authority exercisable by him or her in accordance with arrangements approved by the responsible Minister or the principal officer of the agency.
- (2) A decision in respect of a request made to a court, or made to a tribunal, authority or body that is specified in Schedule 1, may be made on behalf of that court, tribunal, authority or body by the principal officer of that court, tribunal, authority or body or, subject to the regulations, by an officer of that court, tribunal, authority or body acting within the scope of authority exercisable by him or her in accordance with arrangements approved by the principal officer of that court, tribunal, authority or body.