



Australian Government
Office of Parliamentary Counsel

Trav S
foi+request-7677-f7a6fc28@righttoknow.org.au

Dear Trav S

Freedom of information request no. 1-2122

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

2 On 12 August 2021, you sought access to:

- Part 1: A document listing each of the 29 documents related to file 12/5946 - HOSM Amendment Regulation: Iraq clasp, recording the date each document was produced, the government agency/department producing each document, and each document's subject as stated on the document; and
- Part 2: The metadata for each of the emails contained within the 29 documents.

3 On 20 August 2021, following a request for clarification, you amended Part 2 of the request to provide: A copy of each email with the following Email Header metadata unredacted - the sender, receiver, subject and timestamp.

Decision and reasons for decision

4 I, Stephen Campbell, General Manager Corporate, am an officer authorised under subsection 23(1) of the FOI Act to make decisions in relation to FOI requests.

5 We identified no documents meeting the description in Part 1 of your request.

6 We identified 17 documents meeting the description in Part 2 of your request (as amended). I note that these documents were covered by your earlier request (received on 8 April 2021 and decision provided on 5 May 2021).

7 I have decided to refuse access to all documents in full, on the same basis as for your earlier request. The documents are exempt documents under section 42 (documents subject to legal professional privilege).

8 Under section 42 of the FOI Act, a document is an exempt document if it is of such a nature that it would be privileged from production in legal proceedings on the ground of legal professional privilege.

- 9 The documents you are seeking comprise:
- (a) communications for the dominant purpose of provision of drafting instructions to the Office of Legislative Drafting and Publishing (whose functions have since been transferred to OPC); and
 - (b) communications for the dominant purpose of provision of draft legislation and legal advice by the Office of Legislative Drafting and Publishing to the Department of the Prime Minister and Cabinet.

10 These documents are subject to legal professional privilege. The instructing agency entitled to claim legal professional privilege in relation to the documents is the Department of the Prime Minister and Cabinet. The Department has confirmed that it has not waived legal professional privilege in relation to the documents.

11 Given the extent of the redactions that would be required, it is not reasonably practicable for OPC to prepare edited copies of the documents.

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

- the content of the documents that fall within the scope of your request;
- the FOI Act;
- the guidelines issued by the Australian Information Commissioner under section 93A of the FOI Act;
- email from the Department of the Prime Minister and Cabinet dated 23 August 2021.

Your review rights

13 If you are dissatisfied with my decision, you may apply for internal review or Information Commissioner review of the 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

14 Under section 54 of the FOI Act, you may apply for an internal review of my decision. Your application must be made within 30 days after the date of this letter.

15 An internal review will be conducted by a different officer. No particular form is required to apply for review although it will assist your case to set out in the application the grounds on which you believe that the original decision should be overturned. An application for a review of the decision should be lodged in one of the following ways:

email: foi@opc.gov.au

post: FOI Coordinator, Locked Bag 30, Kingston ACT 2604

16 If you choose to seek an internal review, you will subsequently have a right to apply for Information Commissioner review of the internal review decision.

Information Commissioner review

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

online:

https://forms.business.gov.au/smartforms/servlet/SmartForm.html?formCode=ICR_10

email: foidr@oaic.gov.au

post: GPO Box 5218 Sydney NSW 2001

18 More information about Information Commissioner review is available at <https://www.oaic.gov.au/freedom-of-information/reviews-and-complaints/information-commissioner-review/>.

FOI Complaints

19 If you are unhappy with the way we have handled your FOI request, please let us know what we could have done better. We may be able to rectify the problem. If you are not satisfied with our response, you can make a complaint to the Australian Information Commissioner. A complaint to the Information Commissioner must be made in writing. Complaints can be lodged in one of the following ways:

online:

https://forms.business.gov.au/smartforms/servlet/SmartForm.html?formCode=ICCA_1

email: foidr@oaic.gov.au

post: GPO Box 5218 Sydney 2001

20 More information about complaints is available at <https://www.oaic.gov.au/freedom-of-information/reviews-and-complaints/make-an-foi-complaint/>.

21 If you are not sure whether to lodge an Information Commissioner review or an Information Commissioner complaint, more information is available at <https://www.oaic.gov.au/freedom-of-information/reviews-and-complaints/>.

Yours sincerely



Stephen Campbell
General Manager Corporate
31 August 2021