



16 December 2021

Our reference: LEX 65457

Mr Fraser Tweedale (Right to Know)

Only by email: [foi+request-8093-e428f989@righttoknow.org.au](mailto:foi+request-8093-e428f989@righttoknow.org.au)

Dear Mr Tweedale

### **Decision on your Freedom of Information Request**

I refer to your request to Services Australia (the agency) dated 16 November, for access to documents under the *Freedom of Information Act 1982* (FOI Act). You requested access to:

All internal and external communication, including email correspondence, and any other documents brought into existence or modified pursuant to FOI request reference LEX 63435 or internal review reference LEX 64833.

#### **My decision**

The agency holds 19 documents (totalling 57 pages) relating to your request.

I have decided to:

- grant you **full access** to 4 documents (Documents 1, 2, 13 and 14), and
- grant you **part access** to 15 documents (Documents 3 - 12, 15 - 19) with some of the content removed.

I have decided that Documents 3 - 12, 15 - 19 are exempt in part under the FOI Act, as they contain:

- deliberative matter, the disclosure of which is contrary to the public interest (section 47C of the FOI Act), and
- information the release of which would, or could reasonably be expected to, have a substantial adverse effect on the proper and efficient conduct of the operations of the agency, and disclosure is contrary to the public interest (section 47E(d)).
- personal information of other people, the disclosure of which would be unreasonable and contrary to the public interest (section 47F(1) conditional exemption).

Please see the schedule at [Attachment A](#) to this letter for a detailed list of the documents and the reasons for my decision, including the relevant sections of the FOI Act.

#### **Charges**

On 1 December 2021, in accordance with section 29 of the FOI Act, the agency notified you of our preliminary assessment of the charges to process your request. Specifically, the agency notified you were liable to pay a charge of \$42.75 for the processing of your request (Preliminary Charge).

On 2 December 2021, you paid the charge in full.

I am satisfied the Preliminary Charge of \$42.75 accurately reflects the time taken to process your request. Therefore, in accordance with section 9 of the *Freedom of Information (Charges) Regulations 2019* (Charges Regulations), I have decided to fix the charge at \$42.75.

**How we will send your documents to you**

The documents for release are attached to the email containing this letter.

**You can ask for a review of our decision**

If you disagree with any part of the decision you can ask for a review. There are two ways you can do this. You can ask for an internal review from within the agency, or an external review by the Office of the Australian Information Commissioner. See [Attachment B](#) for more information about how to request a review.

**Further assistance**

If you have any questions please email [FOI.LEGAL.TEAM@servicesaustralia.gov.au](mailto:FOI.LEGAL.TEAM@servicesaustralia.gov.au).

Yours sincerely

Colette  
Authorised FOI Decision Maker  
Freedom of Information Team  
Information Access Branch | Legal Services Division  
Services Australia

**SCHEDULE OF DOCUMENTS**  
**TWEEDALE, Fraser (Right to Know) - LEX 65457**

Document No.	Pages	Date	Description	Decision	FOI Act Exemption	Comments
1.	1 - 2	14/07/2021	Internal correspondence	Release in full	-	Staff details deleted under s22 (out of scope)
2.	3 - 4	14/07/2021	Internal correspondence	Release in full	-	Staff details deleted under s22 (out of scope)
3.	5 - 6	15/07/2021	Internal correspondence	Exempt in part	s47C s47E(d) s47F(1)	Deliberative material exempt under s47C Information which, if disclosed, could have a substantial adverse effect on the proper and efficient conduct of the operations of the agency exempt under s47E(d) Personal information redacted under s47F(1) Staff details deleted under s22 (out of scope)

Document No.	Pages	Date	Description	Decision	FOI Act Exemption	Comments
4.	7 - 8	15/07/2021	Internal correspondence	Exempt in part	s47C s47E(d) s47F(1)	Deliberative material exempt under s47C Information which, if disclosed, could have a substantial adverse effect on the proper and efficient conduct of the operations of the agency exempt under s47E(d) Personal information redacted under s47F(1) Staff details deleted under s22 (out of scope)
5.	9 - 16	15/07/2021	Internal correspondence	Exempt in part	s47C s47E(d)	Deliberative material exempt under s47C Information which, if disclosed, could have a substantial adverse effect on the proper and efficient conduct of the operations of the agency exempt under s47E(d) Staff details deleted under s22 (out of scope)
6.	17 - 18	16/07/2021	Internal correspondence	Exempt in part	s47C s47E(d) s47F(1)	Deliberative material exempt under s47C Information which, if disclosed, could have a substantial adverse effect on the proper and efficient conduct of the operations of the agency exempt under s47E(d) Personal information redacted under s47F(1) Staff details deleted under s22 (out of scope)

Document No.	Pages	Date	Description	Decision	FOI Act Exemption	Comments
7.	19	16/07/2021	Internal correspondence	Exempt in part	s47C s47E(d) s47F(1)	Deliberative material exempt under s47C Information which, if disclosed, could have a substantial adverse effect on the proper and efficient conduct of the operations of the agency exempt under s47E(d) Personal information redacted under s47F(1)
8.	20 - 21	16/07/2021	Internal correspondence	Exempt in part	s47C s47E(d) s47F(1)	Deliberative material exempt under s47C Information which, if disclosed, could have a substantial adverse effect on the proper and efficient conduct of the operations of the agency exempt under s47E(d) Personal information redacted under s47F(1) Staff details deleted under s22 (out of scope)
9.	22 - 23	10/08/2021	Internal correspondence	Exempt in part	s47C s47E(d)	Deliberative material deleted under s47C Information which, if disclosed, could have a substantial adverse effect on the proper and efficient conduct of the operations of the agency deleted under s47E(d) Staff details deleted under s22 (out of scope)

Document No.	Pages	Date	Description	Decision	FOI Act Exemption	Comments
10.	24 - 34	12/08/2021	Internal correspondence	Exempt in part	s47C s47E(d)	Deliberative material exempt under s47C Information which, if disclosed, could have a substantial adverse effect on the proper and efficient conduct of the operations of the agency exempt under s47E(d) Staff details deleted under s22 (out of scope)
11.	35 - 36	20/08/2021	Internal correspondence	Exempt in part	s47C s47E(d) s47F(1)	Deliberative material exempt under s47C Information which, if disclosed, could have a substantial adverse effect on the proper and efficient conduct of the operations of the agency exempt under s47E(d) Personal information redacted under s47F(1) Staff details deleted under s22 (out of scope)
12.	37 - 39	Various	Internal correspondence	Exempt in part	s47C s47E(d)	Deliberative material exempt under s47C Information which, if disclosed, could have a substantial adverse effect on the proper and efficient conduct of the operations of the agency exempt under s47E(d) Staff details deleted under s22 (out of scope)
13.	40 - 41	Various	Internal correspondence	Release in full	-	Staff details deleted under s 22 (out of scope)

Document No.	Pages	Date	Description	Decision	FOI Act Exemption	Comments
14.	42 - 43	Various	Internal correspondence	Release In full	-	Staff details deleted under s 22 (out of scope)
15.	44 - 46	18/10/2021	Internal correspondence	Exempt in part	s47E(d)	Information which, if disclosed, could have a substantial adverse effect on the proper and efficient conduct of the operations of the agency exempt under s47E(d) Staff details deleted under s 22 (out of scope)
16.	47 - 48	19/10/2021	Internal correspondence	Exempt in part	s47C s47E(d)	Deliberative material exempt under s47C Information which, if disclosed, could have a substantial adverse effect on the proper and efficient conduct of the operations of the agency exempt under s47E(d) Staff details deleted under s22 (out of scope)
17.	49 - 50	26/10/2021	Internal correspondence	Exempt in part	s47C	Deliberative material deleted under s47C Staff details deleted under s22 (out of scope)
18.	51 - 53	09/11/2021	Internal correspondence	Exempt in part	s47C s47F(1)	Deliberative material exempt under s47C Personal information redacted under s47F(1) Staff details and irrelevant material deleted under s22 (out of scope)

Document No.	Pages	Date	Description	Decision	FOI Act Exemption	Comments
19.	54 - 57	Various	Internal correspondence	Exempt in part	s47C s47E(d)	Deliberative material exempt under s47C Information which, if disclosed, could have a substantial adverse effect on the proper and efficient conduct of the operations of the agency exempt under s47E(d) Staff details deleted under s22 (out of scope)



# REASONS FOR DECISION

## What you requested

On 16 November 2021, you requested:

All internal and external communication, including email correspondence, and any other documents brought into existence or modified pursuant to FOI request reference LEX 63435 or internal review reference LEX 64833.

On 24 November 2021, the agency acknowledged your request and advised we would not include personal details about our staff (such as their names). You did not contact the agency again about this. Staff details have therefore been redacted in accordance with section 22(1) of the FOI Act.

## What I took into account

In reaching my decision I took into account:

- your request dated 16 November 2021
- the documents falling within the scope of your request
- whether the release of material is in the public interest
- consultations with agency officers about:
  - the nature of the documents
  - the agency's operating environment and functions
- guidelines issued by the Australian Information Commissioner under section 93A of the FOI Act (the Guidelines), and
- the FOI Act.

## Reasons for my decisions

I am authorised to make decisions under section 23(1) of the FOI Act.

### Deliberative Processes

I have applied the conditional exemption in section 47C of the FOI Act to the documents identified in the Schedule.

This section of the FOI Act provides a document is conditionally exempt if it would disclose deliberative matter. Deliberative matter is an opinion, advice or recommendation, or a consultation or deliberation that has taken place in the course of, or for the purposes of, the deliberative processes of an agency.

Material which is operational or purely factual information is not deliberative. The deliberative exemption also does not apply to reports of scientific or technical experts, reports of a body or organisation prescribed by the regulations, or a formal statement of reasons.

Having carefully reviewed the documents I am satisfied that parts of them contain advice, recommendations, consultations and deliberations relating to the agency's FOI functions and the processing of requests under the FOI Act. I am also satisfied the documents are not operational information or purely factual information, and are otherwise not of a kind specifically excluded under section 47C of the FOI Act.

Accordingly, I am satisfied the relevant material is conditionally exempt under section 47C(1) of the FOI Act.

#### *Public interest considerations*

Access to conditionally exempt material must be given unless I am satisfied it would not be in the public interest to do so.

I consider that disclosure of the material would not materially promote the objects of the FOI Act or facilitate access to government information. On the other hand, having assessed the substance and nature of the material, I also consider that disclosure would prejudice the ability of agency staff to freely exchange advice, opinions and recommendations in relation to FOI processing strategies and decision-making. This, in turn, could reasonably be expected to have an adverse impact on the internal consultation and decision-making processes necessary to the agency's management of FOI requests.

Paragraph 6.55 of the Guidelines states the deliberative processes exemption may apply even when no type of harm results from disclosure. While the FOI Act promotes public access to information, it also recognises the importance of Commonwealth agencies having 'thinking space' to carry out their functions and activities. The release of information generated by the agency as part of its deliberations on the processing of FOI requests could reasonably be expected to weaken the integrity of its FOI thinking processes and, in particular, inhibit the exchange of views between officers involved in the FOI process which ultimately the diminishes the decision-maker's capacity to appropriately perform their duties under the FOI Act.

Having weighed the factors outlined above, I have decided, in this instance, the public interest in disclosing the relevant material in the documents is outweighed by the public interest against disclosure.

I have deleted the exempt information in the relevant documents and released the remaining material in accordance with section 22(1) of the FOI Act.

#### Operations of the agency

I have applied the conditional exemption in section 47E(d) of the FOI Act to parts of the documents identified in the Schedule.

This section of the FOI Act allows the agency to determine a document is exempt from release if its disclosure would have a serious or significant effect on the agency's ability to conduct its operations efficiently and properly.

The documents contain references to positional mailboxes which are not publicly available. I am satisfied the positional mailbox is relevant to the conduct of the agency's operations, namely, the provision of services to the Australian public.

I consider disclosing these internal positional mailboxes would negatively affect the conduct of the operations of the agency because these details are intended to be used only to facilitate confidential and prompt communications within the agency.

In my view, releasing the contact details of identified teams to the world-at-large is likely to result in an increased workload for the relevant teams as they would be diverted from their usual duties to respond to or redirect enquiries from people outside the agency, which may result in communications being duplicated or double-handled as a result of being directed to the wrong team. I also consider that release of this information is likely to lead to an unreasonable increase in enquiries made through the mailbox, which would be an inappropriate use of the agency's resources and is likely to result in inefficiencies.

Given the agency's interactions with the public number in the millions, diverting people from the correct, publicly-available channels cannot be categorised as insubstantial or nominal.

#### *Public interest considerations*

Access to conditionally exempt material must be given unless I am satisfied it would not be in the public interest to do so.

I consider the disclosure of the material would not promote the objects of the FOI Act and there is little to no public interest in the material being released. On the other hand, I consider the disclosure of the exempted material would have a significant and detrimental impact on the agency's ability to properly and efficiently deliver services to the Australian public.

Overall, I find the public interest in disclosing the internal positional mailbox details is outweighed by the public interest against disclosure.

I have not taken into account any of the irrelevant factors set out in section 11B(4) of the FOI Act in making this decision.

#### Unreasonable disclosure of personal information

I have applied the conditional exemption in section 47F(1) of the FOI Act to Documents 3 - 4, 6 - 8, 11 and 18 identified in the Schedule.

This section of the FOI Act allows the agency to redact material from a document if its release would involve the unreasonable disclosure of personal information about any person.

Personal information is information or an opinion about an identified individual, or an individual who is reasonably identifiable. It can include information such as a person's name, address, telephone number, date of birth, medical records, bank account details, taxation information and signature. I am satisfied Documents 4, 8, 12 and 18 contain personal information, being direct telephone numbers and office locations of senior executive staff within the agency.

I am satisfied the disclosure of the information would be unreasonable as the information is private, not publicly available, and would not be reasonably known to you.

On this basis, I have decided the personal information included in Documents 3 - 4, 6 - 8, 11 and 18 are conditionally exempt under section 47F(1) of the FOI Act.

*Public interest considerations*

Access to conditionally exempt material must be given unless I am satisfied it would not be in the public interest to do so.

I consider the disclosure of the material would not promote the objects of the FOI Act and there is little to no public interest in the material being released. I also consider disclosure would prejudice these individuals' right to privacy, and adversely affect or harm their interests. I consider there is a persuasive argument for ensuring their right to privacy where their personal information contained in the Documents is not reasonably known to you.

As such, I find the public interest in disclosing the material is outweighed by the public interest against disclosure.

I have not taken into account any of the irrelevant factors set out in section 11B(4) of the FOI Act in making this decision.

## INFORMATION ON RIGHTS OF REVIEW

### *FREEDOM OF INFORMATION ACT 1982*

#### **Asking for a full explanation of a Freedom of Information decision**

Before you ask for a formal review of a FOI decision, you can contact us to discuss your request. We will explain the decision to you. This gives you a chance to correct misunderstandings.

#### **Asking for a formal review of a Freedom of Information decision**

If you still believe a decision is incorrect, the 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:

1. an Internal Review Officer in the agency, and/or
2. the Australian Information Commissioner.

**Note 1:** There are no fees for these reviews.

#### **Applying for an internal review by an Internal Review Officer**

If you apply for internal review, a different decision maker to the agency 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
- made within 30 days of receiving this letter, or
- sent to the address at the top of the first page of this letter.

**Note 2:** 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 decision or the internal review decision, you can ask the Australian Information Commissioner to review the decision.

If you do not receive a decision from an Internal Review Officer in the agency within 30 days of applying, you can ask the Australian Information Commissioner for a review of the original FOI decision.

You will have 60 days to apply in writing for a review by the Australian Information Commissioner.

You can **lodge your application**:

Online: [www.oaic.gov.au](http://www.oaic.gov.au)

Post: Australian Information Commissioner  
GPO Box 5218  
SYDNEY NSW 2001

Email: [enquiries@oaic.gov.au](mailto:enquiries@oaic.gov.au)

**Note 3:** The Office of the Australian Information Commissioner generally prefers FOI applicants to seek internal review before applying for external review by the Australian Information Commissioner.

**Important:**

- if you are applying online, the application form the 'Merits Review Form' is available at [www.oaic.gov.au](http://www.oaic.gov.au).
- if you have one, you should include with your application a copy of the agency's decision on your FOI request
- include your contact details, and
- set out your reasons for objecting to the agency's decision.

**Complaints to the Australian Information Commissioner and Commonwealth Ombudsman**

***Australian Information Commissioner***

You may complain to the Australian 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 Australian Information Commissioner must be made in writing. The Australian Information Commissioner's contact details are:

Telephone: 1300 363 992

Website: [www.oaic.gov.au](http://www.oaic.gov.au)

***Commonwealth Ombudsman***

You may also complain to the Commonwealth 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 Commonwealth Ombudsman may be made in person, by telephone or in writing. The Commonwealth Ombudsman's contact details are:

Phone: 1300 362 072

Website: [www.ombudsman.gov.au](http://www.ombudsman.gov.au)

The Commonwealth Ombudsman generally prefers applicants to seek review before complaining about a decision.