



**Australian Government**  
**Department of Finance**

Reference: FOI14/166  
Contact: FOI Team  
Telephone: (02) 6215 1783  
e-mail: [foi@finance.gov.au](mailto:foi@finance.gov.au)

Mr Mark R Diamond  
Right to Know

**via email:** [foi+request-823-65f690b6@righttoknow.org.au](mailto:foi+request-823-65f690b6@righttoknow.org.au);

Dear Mr Diamond,

**Freedom of Information Request – FOI14/166**

Thank you for your email to the Department of Finance (Finance) in which you sought access to the following under the *Freedom of Information Act 1982* (FOI Act).

*I request a copy of the briefing documents prepared for Secretary Halton to inform her testimony on 20 November 2014 to the Senate Finance and Public Administration Legislation Committee.*

*I request only documents that refer, directly or indirectly to the Open Government Partnership (OGP) and of such documents, only those parts of the documents that relate directly or indirectly to the OGP, including the possibility of Australia joining the OGP. This request is intended to encompass documents that were prepared for the stated purpose whether or not they were relied on or actually used by Secretary Halton in her testimony.*

**Authorised decision-maker**

I am authorised by the Secretary under subsection 23(1) of the FOI Act to grant or deny access to documents under the FOI Act.

**Decision**

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

- the terms of your FOI request;
- the content of the document that falls within the scope of your request;
- the relevant provisions of the FOI Act; and
- the FOI Guidelines issued by the Office of the Australian Information Commissioner (OAIC Guidelines).

I have decided to release one document in full.

The document that I have decided to release is identified in the Schedule at [Attachment A](#).

## **Potential exemptions**

The document that falls within the scope of the request is in the nature of a brief prepared for Estimates. I am mindful that if it were known that briefs containing deliberative or other sensitive matter were to be released publicly it may be that this would have an inhibiting effect on the content and style of future briefs such that they may not be as frank and candid as they might otherwise be. Given this, I have considered whether any exemptions may apply, including the possible application of section 47E of the FOI Act.

Section 47E(d) provides that a document is conditionally exempt 'if its disclosure under [the FOI Act] would, or could reasonably be expected to ... (d) have a substantial adverse effect on the proper and efficient conduct of the operations of an agency'. Access must be provided to a document that is conditionally exempt unless release of the document at that time would on balance be contrary to the public interest (s 11A(5)).

Five criteria must be satisfied under paragraph 47E(d) and other sections before access to the document could be refused – that disclosure of the entire document 'could reasonably be expected'; to have a 'substantial adverse effect'; on the 'proper and efficient conduct of the operations' of a department; that adverse effect would be 'contrary to the public interest' (s 11A); and it was not possible to prepare an edited copy of the document so that access could be provided to non-exempt material that did not satisfy those other criteria (s 22). On this occasion, I do not consider that the exemption in section 47E, or any other exemption, applies.

As such, I have decided that the document identified at Attachment A is to be released in full.

## **Charges**

No charges were imposed for the processing of this request.

## **Review and appeal rights**

You are entitled to request an internal review or a review by the OAIC of my decision. The process for review and appeal rights is set out at Attachment (B).

## **Publication**

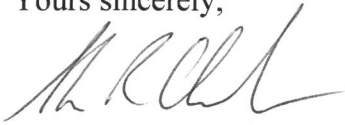
The FOI Act requires Commonwealth agencies to publish:

- information in documents to which the agency routinely gives access in response to FOI requests except where that information is exempt under the FOI Act and
- information in documents release under the FOI Act.

Subject to certain exceptions, any documents provided to you under the FOI Act will be published on Finance's FOI Disclosure Log ([www.finance.gov.au](http://www.finance.gov.au)) as soon as possible. Finance's policy is to publish the documents within one working day after they are released to you.

If you have any questions in regards to this request, please contact the FOI Team on the above contact details.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Sharyn Clarkson', written in a cursive style.

Sharyn Clarkson  
Assistant Secretary  
Online Services Branch  
Department of Finance  
9 January 2015

**ATTACHMENT A**

**SCHEDULE OF DOCUMENTS RELEVANT TO FOI REQUEST No. 14/166**

<b>Document No.</b>	<b>Date of Document</b>	<b>No. of Pages</b>	<b>Author</b>	<b>Addressee</b>	<b>Description of Document</b>	<b>Decision</b>
1	October 2014	2	Finance	Finance	Estimates Brief	Release in Full



## Australian Government

### Department of Finance

## Freedom of Information – Your Review Rights

If you disagree with the decision made by the Department of Finance (Finance) under the *Freedom of Information Act 1982* (the FOI Act), you can ask for the decision to be reviewed. You may want to seek review if you sought certain documents and were not given full access, if you have been informed that there will be a charge for processing your request, if you have made a contention against the release of documents that has not been agreed to by the Department, or if your application to have your personal information amended was not accepted. There are two ways you can ask for review of a decision: internal review by Finance, or external review by the Australian Information Commissioner.

### Internal Review

If Finance makes an FOI decision that you disagree with, you can ask Finance to review its decision. The review will be carried out by a different agency officer, usually someone at a more senior level. There is no charge for internal review.

You must apply within 30 days of being notified of the decision, unless Finance agrees to extend the application time. You should contact Finance if you wish to seek an extension.

Finance is required to make a review decision within 30 days. If Finance does not do so, the original decision is considered to be affirmed.

#### ***How to apply for internal review***

You must apply in writing and should include a copy of the notice of the decision provided and the points you are objecting and why. You can lodge your application in writing through one of the contact details provided at the end of this document.

#### **Review by the Australian Information Commissioner (IC)**

The IC is an independent office holder who can review the decisions of agencies and ministers under the FOI Act. The IC can review access refusal decisions (s 54L(2)(a) of the FOI Act), access grant

decisions (s 54M(2)(a)), refusals to extend the period for applying for internal review under s 54B (s 54L(2)(c)), and agency internal review decisions under s 54C (ss 54L(2)(b) and 54M(2)(b)).

If you are objecting to a decision to refuse access to documents, impose a charge or refuse to amend a document, you must apply to the IC within 60 days of being given notice of the decision. If you are objecting to a decision to grant access to another person, you must apply within 30 days of being notified of that decision.

#### ***Do I have to go through Finance's internal review process first?***

No. You may apply directly to the IC. However, going through Finance's internal review process gives Finance the opportunity to reconsider its initial decision, and your needs may be met more quickly without undergoing an external review process.

#### ***Do I have to pay?***

No. Review by the IC is currently free.

### ***How do I apply?***

You must apply for IC review in writing and you can lodge your application in one of the following ways:

**Post:** Office of the Australian Information Commissioner  
GPO Box 2999  
CANBERRA ACT 2601

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

**Fax:** 02 9284 9666

**In person:** Level 3  
175 Pitt Street  
SYDNEY NSW 2000

An electronic application form is also available on the OAIC's website ([www.oaic.gov.au](http://www.oaic.gov.au)). Your application should include a copy of the notice of the decision that you are objecting to (if one was provided), and your contact details. You should also set out why you are objecting to the decision.

### ***Making a complaint***

You may make a written complaint to the IC about actions taken by Finance in relation to your application. However, if you are complaining that a Finance decision is wrong, it is treated as an application for review. For further information, see [FOI fact sheet 13 – Freedom of Information: How to make a complaint](#).

### ***When can I go to the Administrative Appeals Tribunal (AAT)?***

Under the FOI Act, you must seek external review through the IC prior to applying to the AAT for such a review. The fee for lodging an AAT application is currently \$816 (from 1 July 2012), although there are exemptions for health care and pension concession card holders and the AAT can waive the fee on financial hardship grounds.

### ***Investigation by the Ombudsman***

The Commonwealth Ombudsman can also investigate complaints about action taken by agencies under the FOI Act. However, if the issue complained about either could be or has been investigated by the IC, the

Ombudsman will consult the Commissioner to avoid the same matter being investigated twice. If the Ombudsman decides not to investigate the complaint, then they are to transfer all relevant documents and information to the IC.

The IC can also transfer a complaint to the Ombudsman where appropriate. This could occur where the FOI complaint is only one part of a wider grievance about an agency's actions. It is unlikely that this will be common. You will be notified in writing if your complaint is transferred.

Applications to the Ombudsman should be directed to the following address:

**Post:** Commonwealth Ombudsman  
PO Box 442  
CANBERRA ACT 2601

**Phone:** 02 6276 0111  
1300 362 072

#### **Finance FOI contact details**

FOI Coordinator  
Legal Services Branch  
Department of Finance  
John Gorton Building  
King Edward Terrace  
PARKES ACT 2600  
**Phone:** 02 6215 1783  
**Email:** [foi@finance.gov.au](mailto:foi@finance.gov.au)  
**Website:** [www.finance.gov.au/foi/foi.html](http://www.finance.gov.au/foi/foi.html)