



Australian Government

Department of the Prime Minister and Cabinet

ONE NATIONAL CIRCUIT
BARTON

Your Reference: CP2101673
Our Reference: FOI/2021/053

Ms Elizabeth Hampton
Acting Freedom of Information Commissioner
Office of the Australian Information Commissioner
GPO Box 5218
SYDNEY NSW 5218

Liz
Dear Ms Hampton

Re: Response to the notice on completion of a complaint investigation in accordance with section 86 of the *Freedom of Information Act 1982 (Cth)* (the FOI Act)

On 5 October 2021, you wrote to the Secretary of the Department of the Prime Minister and Cabinet (the Department) advising of your completion of the investigation into the complaint made by M Parkins (the complainant) on 9 June 2021 under section 70 of the *Freedom of Information Act 1982 (Cth)* (the FOI Act). Thank you for the opportunity to provide some comments against your Notice on Completion for Investigation of Complaint CP21/01673 and also your invitation to advise the Office of the Australian Information Commissioner (OAIC) of our implementation of your recommendations.

In respect of your finding that the Department did not comply with the processing period when processing FOI request FOI/2021/053, the Department accepts this finding and notes that a decision was provided to the applicant on 5 July 2021. The Department accepts the decision ought to have been provided to the applicant one month earlier, on 4 June 2021.

Our earlier advice to the OAIC indicated the delay was attributable to both the volume and complexity of the FOI request and the Department's internal clearance and communication processes. In this instance, the issue which gave rise to the delay is to be found in the Department's FOI Business Rules, which require decisions on FOI requests to be subjected to a 'noting' process.

In response to the delay on this particular request, and acknowledging the finding of the OAIC in this case, the Department is reviewing its Business Rules with a view to streamlining clearance and noting processes. In our view, this is the most effective response to the findings in this case and the action that is most likely to make meaningful change within the Department and prevent a re-occurrence.

We hope the following information is of assistance to the OAIC in relation to both the Department's information governance and our internal training protocols, which we consider to be extremely robust.

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Information Governance

The Department agrees with your assessment that information governance around FOI is essential in all agencies, and that senior-level support for FOI processes is a necessary element of a positive FOI culture in an agency.

The Department is effectively supported on FOI compliance by the Deputy Secretary (Governance), who receives regular updates on the FOI caseload and engages with SES decision-makers, and the FOI team, on ensuring requests are processed as a priority. In addition, SES Band 1 and 2 officers from within our Government Division are daily engaged on FOI matters and provide oversight, management and direction on all matters.

In the Department's view, given this current level of senior SES engagement, an additional governance layer, complete with its own governance board, is unlikely to bring about improvements in compliance with statutory processing times under the FOI Act.

Training

The Department also agrees with your assessment of the importance of appropriate, robust and regular FOI training for staff and decision makers. In recognition of this importance, the Department procured a comprehensive FOI training package in the 2018-2019 financial year, which was delivered in bespoke packages to Senior Executive decision-makers across the Department, line area contact officers (those staff supporting SES on FOI processing), and the FOI Team.

This training was delivered by highly experienced lawyers from the Australian Government Solicitor over multiple sessions. The training was video-recorded and is now available to all staff on the Department's intranet under a dedicated FOI training webpage, along with other FOI tools and resources. SES decision-makers are informed about the Department's FOI resources and tools upon engagement, and are regularly reminded of particular training resources available to them, including when they are engaged on a new FOI request. We continue to roll out additional training as required and to refresh our existing training modules.

The Department has a small team of officers who provide FOI advice and support to decision-makers. This team comprises two officers with extensive specialist experience in the FOI Act, and other officers with solid experience in the FOI Act both from an operational and policy perspective. The FOI team routinely attends educative forums facilitated by the OAIC and the AGS to stay up-to-date with FOI practice and case developments, along with internal team knowledge-sharing sessions.

Evidence of the strong senior level support within the Department for positive FOI practices, and evidence of the effectiveness of our current training regime can be seen in the Department's recent performance on FOI compliance. For example, for the 2020-21 financial year, 98% of FOI requests finalised by decision were finalised on time.

If you or your staff see benefit in a further discussion, I would be grateful if they would contact Ms Petra Gartmann, Assistant Secretary, on petra.gartmann@pmc.gov.au or s22(1)(a)(ii)

Yours sincerely
s22(1)(a)(ii)

Stephanie Foster PSM
Deputy Secretary Governance

27 October 2021