



Australian Government
Australian Public Service Commission

Melania

By email: foi+request-8434-ac6a67f4@righttoknow.org.au

Our reference: SHC22-1394

Dear Melania

Freedom of Information request

1. I am writing about your Freedom of Information (FOI) request under the *Freedom of Information Act 1982* (FOI Act) made on 14 February 2022 for access to documents held by the Australian Public Service Commission (Commission).
2. The FOI Act and all other Commonwealth legislation referred to in this letter are publicly available from www.legislation.gov.au.

Documents relevant to your request

3. You requested access to documents on the following terms:

“I request access to all documentary correspondence (emails or otherwise), between 1 January 2018 and 31 December 2021, between staff in the APSC and people engaged to represent the Australian Public Service Commissioner in relation to Senior Executive Service selection processes for the Federal Court Agency.”

Searches

4. Extensive searches have been conducted to identify documents within scope of your request. This included:
 - identification of individuals who participated as a representative of the Commissioner for Federal Court SES recruitment between 1 January 2018 and 31 December 2018;
 - consultation with Commission staff across a number of business areas; and
 - searches of our Information Technology systems.
5. I have identified 1 document in scope of your request.

Decision

6. I am authorised under subsection 23(1) of the FOI Act to make FOI decisions.
7. I have decided to grant you access in part to 1 document.

Deletion of exempt matter or irrelevant material

8. Section 22 of the FOI Act requires an agency to provide access to an edited version of a document where it is reasonably practicable to edit the document to remove exempt material or material that is irrelevant to the scope of a request.
9. A copy of the document has been edited to remove material that is either exempt or irrelevant material to the scope of your request.
10. The schedule at **Attachment A** sets out the grounds on which information has been redacted from the documents.
11. My reasons are set out in **Attachment B**.

Contacts

12. If you require clarification on matters in this letter please contact the Commission's FOI Officer by telephone on (02) 6202 3500 or by email at foi@apsc.gov.au.

Review rights

13. You are entitled to seek review of this decision.
14. Your review rights are set out at **Attachment C**.

Yours sincerely



Giordina Strangio

Authorised FOI decision maker

28 March 2022

SCHEDULE OF DOCUMENTS

Document	Description	Basis of redaction
1	Email chain between Peter Woolcott and Kerryn Vine-Camp dated 31 July 2018	Sections 22 and 47F of the FOI Act apply.

Reasons for decision

1. I have decided to refuse access to parts of document because I have determined it is exempt from the operation of the FOI Act or irrelevant material to the scope of your request.
2. In making my decision I have had regard to:
 - the terms of your request;
 - the content of the document;
 - the relevant provisions of the FOI Act; and
 - FOI guidelines issued by the Australian Information Commissioner and published on the Office of the Australian Information Commissioner (the OAIC) website.

Conditional exemptions

Section 47F – personal information

3. Section 47F of the FOI Act provides that a document is conditionally exempt if it would involve the unreasonable disclosure of personal information about any person.
4. Personal information means information or an opinion about an identified individual, or an individual who is reasonably identifiable whether:
 - the information or opinion is true or not; and
 - the information or opinion is recorded in a material form or not.
5. I consider the document contains personal information.
6. I have had regard to the matters I must consider under subsection 47F(2) of the FOI Act in determining whether the disclosure of the documents would involve the unreasonable disclosure of personal information.
7. With the substantial increase in electronic requests and related correspondence, a rise in anonymous applications as well as requests affecting the safety and wellbeing of employees, the Commission now assesses whether a disclosure of public servants' personal information in requests is unreasonable under section 47F of the FOI Act.
8. I have identified the following factors that, in my view, do not support release of certain public servants' personal information under section 47F of the FOI Act:
 - the mobile telephone contact details in the correspondence are generally not well known or publicly available, and the mobile telephone number has since been assigned to a different staff member;
 - the document contains personal travel information about an individual, which is not otherwise publicly available;
 - the disclosure of this information will not advance scrutiny of any decisions falling within the scope of your FOI request, particularly with regard to staff who are acting in the course of their ordinary duties;
 - the release of some of the individual's personal information may cause stress for them or other detriment; and

- no public purpose or interest in increasing transparency of government would be achieved through the release of the information.
9. Considering the above factors, I have decided that to the extent the document includes certain personal information those parts of the documents are conditionally exempt from disclosure under section 47F of the FOI Act.

Section 11A – public interest test

10. Subsection 11A(5) of the FOI Act provides that an agency must give access to a document if it is conditionally exempt unless access to the document would, on balance, be contrary to the public interest.
11. I have considered the public interest exemption factors in favour of disclosure at subsection 11B(3) of the FOI Act, including the extent to which access to the document would promote the objects of the FOI Act and inform debate on a matter of public importance.
12. I have identified the following factors as weighing against disclosure:
- disclosure of certain personal information (including contact details) will not advance any scrutiny of any decisions falling within the scope of your FOI request;
 - there is a public interest in APS employers fulfilling their obligations under the *Work Health and Safety Act 2011*, in particular by preventing the exposure of staff members from potential harassment or threats in a public forum; and
 - disclosure may undermine the Commission’s relationship with third party individuals, and would do little to enhance scrutiny of government decisions.
13. Subsection 11B(4) of the FOI Act lists factors that are irrelevant to determining whether access would be in the public interest. I have not considered these factors.
14. On balance, I find disclosure of some parts of the document would be contrary to the public interest. To the extent the material contained in the document is conditionally exempt under section 47F of the FOI Act, those parts are exempt from disclosure. An edited version of the document is therefore provide pursuant to section 22 of the FOI Act.

Rights of Review

Asking for a full explanation of a Freedom of Information decision

If you are dissatisfied with this decision, you may seek review. Before you seek review of a Freedom of Information (FOI) decision, you may contact us to discuss your request and we will explain the decision to you.

Seeking review of a Freedom of Information decision

If you still believe a decision is incorrect, the *Freedom of Information Act 1982* (the FOI Act) may give 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 seeking:

1. an internal review by an different officer of the Australian Public Service Commission; and/or
2. external review by the Australian Information Commissioner.

There are no fees applied to either review option.

Applying for a review by an Internal Review Officer

If you apply for internal review, a different decision maker to the departmental 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 within 30 days of receiving this letter to:

Email: foi@apsc.gov.au

Post: The FOI Officer
Australian Public Service Commission
B Block, Treasury Building
GPO Box 3176
Parkes Place West
PARKES ACT 2600

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 FOI decision or the internal review decision, you can ask the Australian Information Commissioner to review the decision. You have 60 days to apply in writing for a review by the Office of the Australian Information Commissioner (the OAIC) from the date you received this letter or any subsequent internal review decision.

You can **lodge your application**:

Online: www.oaic.gov.au

Post: Australian Information Commissioner
GPO Box 5218
SYDNEY NSW 2001

Email: enquiries@oaic.gov.au

The OAIC encourage applicants to apply online. Where possible, to assist the OAIC you should include your contact information, a copy of the related FOI decision and provide details of your reasons for objecting to the decision.

Complaints to the Information Commissioner and Commonwealth Ombudsman

Information Commissioner

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

Telephone: 1300 363 992

Website: www.oaic.gov.au

Commonwealth Ombudsman

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

Phone: 1300 362 072

Website: www.ombudsman.gov.au