



Australian Government
Department of Social Services

Our reference: FOI 2122-125

Decision date: 10 May 2022

Applicant name: Susan Clive

By email: foi+request-8590-6040b433@righttoknow.org.au

Dear Susan,

Freedom of Information Request: FOI 2122-125

1. I refer to your correspondence received by the Department of Social Services (the Department) on 11 March 2022, in which you requested access to:

“...the final report, findings and recommendations of the 2021 Swinburne University Information, Linkages and Capacity Building Research Project commissioned by the Department of Social Services.”

2. Your request was made pursuant to the *Freedom of Information Act 1982* (FOI Act).

Decision

3. The Department has undertaken a reasonable search of its records and has identified three (3) documents relevant to your request.
4. I have made a decision to grant access to the documents falling within the scope of your request in full, noting that they are published on the Department’s website.
5. The documents that I have chosen to release are set out in **Appendix 1**.

Authority to make decision

6. I am an officer authorised by the Secretary of the Department to make decisions about access to documents in the possession of the Department in accordance with section 23(1) of the FOI Act.

Summary

7. On 11 March 2022, you made a request for access to documents in the possession of the Department.
8. The Department acknowledged your request on 16 March 2022 and sought your agreement to the removal of non-Senior Executive Service (non-SES) staff names and contact details under section 22 of the FOI Act. As no response was received



Australian Government
Department of Social Services

from you, the Department has proceeded on the basis that these details are potentially relevant to your request.

9. On 31 March 2022, the Department notified you that it was required to undertake third party consultations under section 27 of the FOI Act. Those consultations were concluded and the comments from that affected third party have been taken into consideration in making my decision.
10. On 3 May and 5 May 2022, the Department contacted you to advise that the report you sought access to had been published on the Department's website. The Department provided you with a link to the published documents and sought your agreement to withdraw your FOI request.
11. As no response was received, the Department proceeded to process your request and to issue you with a formal decision.
12. As an extension of time was applied to process your request in accordance with section 15(6) of the FOI Act, a decision on your request is due by 10 May 2022.
13. I have decided not to impose a charge in relation to this request, in accordance with Regulation 8 of the *Freedom of Information (Charges) Regulations 2019*.

Material taken into account

14. In accordance with section 26(1)(a) of the FOI Act, my findings on any material question of fact, the material on which those findings were based and the reasons for my decision to grant full access to the document[s] follow[s].
15. I have taken the following material into account in making my decision:
 - the terms of your request;
 - the types of information and documents that are in the Department's possession;
 - the content of the documents that fall within the scope of your request;
 - Sections 3, 11 and 11A of the FOI Act which give the Australian community a legally enforceable right to obtain access to information held by the Government of the Commonwealth; and
 - the Guidelines issued by the Australian Information Commissioner under section 93A of the FOI Act (FOI Guidelines).



Australian Government
Department of Social Services

16. A full extract of all FOI Act provisions used to make my decision are provided in **Appendix 2**.

Additional information

17. Document three (3), which is entitled 'Informing Investment Design: ILC Research Activity (Summary of Findings)' covers all findings. Please also note that, as this was a research exercise, there are no recommendations.

Access to documents

18. The documents released to you in accordance with the FOI Act are enclosed.
19. Additionally, the documents are publicly available on the Department's website by the following the link: <https://www.dss.gov.au/disability-and-carers-programs-services-for-people-with-disability-information-linkages-and-capacity-building-ilc/summary-informing-investment-design-information-linkages-and-capacity-building-ilc-research-activity>.

Publication of information

20. The FOI Act outlines at Section 11C that agencies must publish information to members of the public, except in specified circumstances.
21. I am of the view that details of your request should be made available on the Department's FOI Disclosure Log. As such, details of your request will be published on the Department's FOI Disclosure Log, which can be accessed at <https://www.dss.gov.au/about-the-department/freedom-of-information/disclosure-log>. Please note that the Department does not publish details of FOI applicants, it only publishes details of the FOI request and the documents released in response to the request.

Your rights of review

22. Information about your rights to seek a review of this decision are at **Attachment A**.



Australian Government
Department of Social Services

23. Should you have any enquiries concerning this matter please do not hesitate to contact the FOI team by email at FOI@dss.gov.au .

Yours sincerely,

E. Scott

Director

Freedom of Information Section

Legal Services Branch

10 May 2022



Australian Government
Department of Social Services

Appendix 1
Schedule of documents
FOI 2122-125

Document reference	Date of document	Document description	Pages	Decision
1	November 2021	Overview of results	67	Full Access
2	(Month not specified) 2021	The ILC landscape: a snapshot	35	Full Access
3	December 2021	Informing Investment Design: ILC Research Activity (Summary of Findings)	29	Full Access



Australian Government

Department of Social Services

Appendix 2

Schedule of relevant provisions used in making this decision

Excerpts from the *Freedom of Information Act 1982* (Cth)

3 Objects—general

- (1) The objects of this Act are to give the Australian community access to information held by the Government of the Commonwealth or the Government of Norfolk Island, by:
 - (a) requiring agencies to publish the information; and
 - (b) providing for a right of access to documents.
- (2) The Parliament intends, by these objects, to promote Australia's representative democracy by contributing towards the following:
 - (a) increasing public participation in Government processes, with a view to promoting better informed decision-making;
 - (b) increasing scrutiny, discussion, comment and review of the Government's activities.
- (3) The Parliament also intends, by these objects, to increase recognition that information held by the Government is to be managed for public purposes, and is a national resource.
- (4) The Parliament also intends that functions and powers given by this Act are to be performed and exercised, as far as possible, to facilitate and promote public access to information, promptly and at the lowest reasonable cost.

11 Right of access

- (1) Subject to this Act, every person has a legally enforceable right to obtain access in accordance with this Act to:
 - (a) a document of an agency, other than an exempt document; or
 - (b) an official document of a Minister, other than an exempt document.
- (2) Subject to this Act, a person's right of access is not affected by:
 - (a) any reasons the person gives for seeking access; or
 - (b) the agency's or Minister's belief as to what are his or her reasons for seeking access.

11A Access to documents on request

Scope

- (1) This section applies if:
 - (a) a request is made by a person, in accordance with subsection 15(2), to an agency or Minister for access to:
 - (i) a document of the agency; or
 - (ii) an official document of the Minister; and
 - (b) any charge that, under the regulations, is required to be paid before access is given has been paid.
- (2) This section applies subject to this Act.



Australian Government

Department of Social Services

Note: Other provisions of this Act are relevant to decisions about access to documents, for example the following:

- (a) section 12 (documents otherwise available);
- (b) section 13 (documents in national institutions);
- (c) section 15A (personnel records);
- (d) section 22 (access to edited copies with exempt or irrelevant matter deleted).

Mandatory access—general rule

- (3) The agency or Minister must give the person access to the document in accordance with this Act, subject to this section.

Exemptions and conditional exemptions

- (4) The agency or Minister is not required by this Act to give the person access to the document at a particular time if, at that time, the document is an exempt document.

Note: Access may be given to an exempt document apart from under this Act, whether or not in response to a request (see section 3A (objects—information or documents otherwise accessible)).

- (5) The agency or Minister must give the person access to the document if it is conditionally exempt at a particular time unless (in the circumstances) access to the document at that time would, on balance, be contrary to the public interest.

Note 1: Division 3 of Part IV provides for when a document is conditionally exempt.

Note 2: A conditionally exempt document is an exempt document if access to the document would, on balance, be contrary to the public interest (see section 31B (exempt documents for the purposes of Part IV)).

Note 3: Section 11B deals with when it is contrary to the public interest to give a person access to the document.

- (6) Despite subsection (5), the agency or Minister is not required to give access to the document at a particular time if, at that time, the document is both:
 - (a) a conditionally exempt document; and
 - (b) an exempt document:
 - (i) under Division 2 of Part IV (exemptions); or
 - (ii) within the meaning of paragraph (b) or (c) of the definition of exempt document in subsection 4(1).

11C Publication of information in accessed documents

Scope

- (1) This section applies to information if an agency or Minister gives a person access to a document under section 11A containing the information, except in the case of any of the following:
 - (a) personal information about any person, if it would be unreasonable to publish the information;
 - (b) information about the business, commercial, financial or professional affairs of any person, if it would be unreasonable to publish the information;
 - (c) other information of a kind determined by the Information Commissioner under subsection (2), if it would be unreasonable to publish the information;



Australian Government

Department of Social Services

(d) any information, if it is not reasonably practicable to publish the information under this section because of the extent of any modifications to a document (or documents) necessary to delete information mentioned in paragraphs (a) to (c).

(2) The Information Commissioner may, by legislative instrument, make a determination for the purposes of paragraph (1)(c).

Publication

(3) The agency, or the Minister, must publish the information to members of the public generally on a website by:

- (a) making the information available for downloading from the website; or
- (b) publishing on the website a link to another website, from which the information can be downloaded; or
- (c) publishing on the website other details of how the information may be obtained.

(4) The agency may impose a charge on a person for accessing the information only if:

- (a) the person does not directly access the information by downloading it from the website (or another website); and
- (b) the charge is to reimburse the agency for a specific reproduction cost, or other specific incidental costs, incurred in giving the person access to that particular information.

(5) If there is a charge for accessing the information, the agency or Minister must publish details of the charge in the same way as the information is published under this section.

Time limit for publication

(6) The agency or Minister must comply with this section within 10 working days after the day the person is given access to the document.

(7) In this section:

working day means a day that is not:

- (a) a Saturday; or
- (b) a Sunday; or
- (c) a public holiday in the place where the function of publishing the information under this section is to be performed.

15 Requests for access (as related to the requirements for requests)

Persons may request access

(1) Subject to section 15A, a person who wishes to obtain access to a document of an agency or an official document of a Minister may request access to the document.

Requirements for request

(2) The request must:

- (a) be in writing; and



Australian Government

Department of Social Services

- (aa) state that the request is an application for the purposes of this Act; and
 - (b) provide such information concerning the document as is reasonably necessary to enable a responsible officer of the agency, or the Minister, to identify it; and
 - (c) give details of how notices under this Act may be sent to the applicant (for example, by providing an electronic address to which notices may be sent by electronic communication).
- (2A) The request must be sent to the agency or Minister. The request may be sent in any of the following ways:
- (a) delivery to an officer of the agency, or a member of the staff of the Minister, at the address of any central or regional office of the agency or Minister specified in a current telephone directory;
 - (b) postage by pre-paid post to an address mentioned in paragraph (a);
 - (c) sending by electronic communication to an electronic address specified by the agency or Minister.

22 Access to edited copies with exempt or irrelevant matter deleted

Scope

- (1) This section applies if:
- (a) an agency or Minister decides:
 - (i) to refuse to give access to an exempt document; or
 - (ii) that to give access to a document would disclose information that would reasonably be regarded as irrelevant to the request for access; and
 - (b) it is possible for the agency or Minister to prepare a copy (an **edited copy**) of the document, modified by deletions, ensuring that:
 - (i) access to the edited copy would be required to be given under section 11A (access to documents on request); and
 - (ii) the edited copy would not disclose any information that would reasonably be regarded as irrelevant to the request; and
 - (c) it is reasonably practicable for the agency or Minister to prepare the edited copy, having regard to:
 - (i) the nature and extent of the modification; and
 - (ii) the resources available to modify the document; and
 - (d) it is not apparent (from the request or from consultation with the applicant) that the applicant would decline access to the edited copy.

Access to edited copy

- (2) The agency or Minister must:
- (a) prepare the edited copy as mentioned in paragraph (1)(b); and
 - (b) give the applicant access to the edited copy.

Notice to applicant

- (3) The agency or Minister must give the applicant notice in writing:
- (a) that the edited copy has been prepared; and



Australian Government

Department of Social Services

- (b) of the grounds for the deletions; and
- (c) if any matter deleted is exempt matter—that the matter deleted is exempt matter because of a specified provision of this Act.

- (4) Section 26 (reasons for decision) does not apply to the decision to refuse access to the whole document unless the applicant requests the agency or Minister to give the applicant a notice in writing in accordance with that section.

23 Decisions to be made by authorised persons

- (1) Subject to subsection (2), a decision in respect of a request made to an agency may be made, on behalf of the agency, by the responsible Minister or the principal officer of the agency or, subject to the regulations, by an officer of the agency acting within the scope of authority exercisable by him or her in accordance with arrangements approved by the responsible Minister or the principal officer of the agency.
- (2) A decision in respect of a request made to a court, or made to a tribunal, authority or body that is specified in Schedule 1, may be made on behalf of that court, tribunal, authority or body by the principal officer of that court, tribunal, authority or body or, subject to the regulations, by an officer of that court, tribunal, authority or body acting within the scope of authority exercisable by him or her in accordance with arrangements approved by the principal officer of that court, tribunal, authority or body.

26 Reasons and other particulars of decisions to be given

- (1) Where, in relation to a request, a decision is made relating to a refusal to grant access to a document in accordance with the request or deferring provision of access to a document, the decision-maker shall cause the applicant to be given notice in writing of the decision, and the notice shall:
 - (a) state the findings on any material questions of fact, referring to the material on which those findings were based, and state the reasons for the decision; and
 - (aa) in the case of a decision to refuse to give access to a conditionally exempt document—include in those reasons the public interest factors taken into account in making the decision; and

Note: Access must generally be given to a conditionally exempt document unless it would be contrary to the public interest (see section 11A).

- (b) where the decision relates to a document of an agency, state the name and designation of the person giving the decision; and
 - (c) give to the applicant appropriate information concerning:
 - (i) his or her rights with respect to review of the decision;
 - (ii) his or her rights to make a complaint to the Information Commissioner in relation to the decision; and
 - (iii) the procedure for the exercise of the rights referred to in subparagraphs (i) and (ii);including (where applicable) particulars of the manner in which an application for internal review (Part VI) and IC review (Part VII) may be made.
- (1A) Section 13 of the *Administrative Decisions (Judicial Review) Act 1977* does not apply to a decision referred to in subsection (1).



Australian Government

Department of Social Services

- (2) A notice under this section is not required to contain any matter that is of such a nature that its inclusion in a document of an agency would cause that document to be an exempt document.

27 Consultation—business documents

Scope

- (1) This section applies if:
- (a) a request is made to an agency or Minister for access to a document containing information (**business information**) covered by subsection (2) in respect of a person, organisation or undertaking; and
 - (b) it appears to the agency or Minister that the person, organisation or proprietor of the undertaking (the **person or organisation concerned**) might reasonably wish to make a contention (the **exemption contention**) that:
 - (i) the document is exempt under section 47 (trade secrets etc.); or
 - (ii) the document is conditionally exempt under section 47G (business information) and access to the document would, on balance, be contrary to the public interest for the purposes of subsection 11A(5).
- Note: Access must generally be given to a conditionally exempt document unless it would be contrary to the public interest (see section 11A).
- (2) This subsection covers the following information:
- (a) in relation to a person—information about the person’s business or professional affairs;
 - (b) in relation to an organisation or undertaking—information about the business, commercial or financial affairs of the organisation or undertaking.
- (3) In determining, for the purposes of paragraph (1)(b), whether the person or organisation concerned might reasonably wish to make an exemption contention because of business information in a document, the agency or Minister must have regard to the following matters:
- (a) the extent to which the information is well known;
 - (b) whether the person, organisation or undertaking is known to be associated with the matters dealt with in the information;
 - (c) the availability of the information from publicly accessible sources;
 - (d) any other matters that the agency or Minister considers relevant.

Opportunity to make submissions

- (4) The agency or Minister must not decide to give access to the document unless:
- (a) the person or organisation concerned is given a reasonable opportunity to make submissions in support of the exemption contention; and
 - (b) the agency or the Minister has regard to any submissions so made.
- (5) However, subsection (4) only applies if it is reasonably practicable for the agency or Minister to give the person or organisation concerned a reasonable opportunity to make submissions in support of the exemption contention, having



Australian Government

Department of Social Services

regard to all the circumstances (including the application of subsections 15(5) and (6) (time limits for processing requests)).

Notice of decision to give access

- (6) If the agency or Minister decides to give access to the document, the agency or Minister must give written notice of the decision to both of the following:
- (a) the person or organisation concerned;
 - (b) the applicant.

Access not to be given until review or appeal opportunities have run out

- (7) However, the agency or Minister must not give the applicant access to the document unless, after all the opportunities of the person or organisation concerned for review or appeal in relation to the decision to give access to the document have run out, the decision to give access still stands, or is confirmed.

Note 1: The decision to give access to the document is subject to internal review (see Part VI), review by the Information Commissioner (see Part VII) and review by the Tribunal (see Part VIIA).

Note 2: For when all opportunities for review or appeal in relation to the decision to give access to the document have **run out**, see subsection 4(1).

Notice and stay of decision not to apply unless submission made in support of exemption contention

- (8) Subsections (6) and (7) do not apply unless the person or organisation concerned makes a submission in support of the exemption contention as allowed under paragraph (4)(a).

Edited copies and business information

- (9) This section applies:
- (a) in relation to an edited copy of a document—in the same way as it applies to the document; and
 - (b) in relation to a document containing business information—to the extent to which the document contains such information.