



5 May 2015

Mr Ben Fairless

Our reference: LEX 12159

By email: [foi+request-897-c3ddefe6@righttoknow.org.au](mailto:foi+request-897-c3ddefe6@righttoknow.org.au)

Dear Mr Fairless

### Your Freedom of Information Request - Decision

1. I refer to your request, dated 30 January 2015 and received by the Department of Human Services (the **department**) on the same date, for access under the *Freedom of Information Act 1982* (the **FOI Act**) to the following documents:

‘...a copy of all current policies and guidelines issued regarding the use of SecureMail.

...

a copy of any guide issued by the Department to its officers in the use of SecureMail.’

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

### Background

3. On 24 February 2015, you were notified that you were liable to pay a charge of \$16.05 for processing your request.
4. On 25 February 2015, you contended that the charge had been incorrectly assessed and should not be imposed.
5. On 16 March 2015, you were notified of the department’s decision not to reduce the amount of the charge.
6. On the same date, you requested an internal review of the department’s decision not to reduce the charge (Reference 12814).
7. On 15 April 2015, you were notified that the department had decided to affirm the decision to impose a charge.
8. On 20 April 2015, the department notified you of its decision to waive the charge.

## Decision and Documents

9. The department has identified three documents (totalling 18 pages) as falling within the scope of your freedom of information (**FOI**) request. A schedule of the documents is set out at **Attachment B** (the **Schedule**).
10. Having considered these documents, I have decided to:
  - grant access, in full, to documents two and three; and
  - grant access, in part, to document one.
11. I have decided that a certain page contains material that is conditionally exempt under section 47E(d) of the FOI Act because the release of this material would have a substantial adverse effect on the proper and efficient conduct of the operations of an agency and, pursuant to section 11A(5) of the FOI Act, is not required to be disclosed because disclosure at this time would be, on balance, contrary to the public interest.
12. Please note that some information has been deleted under section 22 of the FOI Act as the information was irrelevant to the scope of your request.

## Information Considered

13. In reaching my decision, I have considered:
  - the terms of your request, dated 30 January 2015;
  - documents falling within the scope of your request;
  - the FOI Act;
  - factors relevant to my assessment of whether or not disclosure of certain pages would be in the public interest;
  - consultations with departmental officers about:
    - the nature of the documents;
    - the department's operating environment and functions; and
  - guidelines issued by the Australian Information Commissioner under section 93A of the FOI Act (**the Guidelines**).

## Reasons for Decision

14. As set out above, a certain part of document one is exempt under the FOI Act. My findings of fact and reasons for deciding that the exemption applies to that document are discussed below.
15. On 3 February 2015, the department acknowledged the receipt of your FOI request and indicated that staff names, direct contact details and personal log-on identifiers would be considered out of the scope of your request. You did not provide any further submissions to the department in relation to this point.

## Section 47E(d) of the FOI Act

16. Section 47E(d) of the FOI Act provides that:

‘A document is conditionally exempt if its disclosure under this Act would, or could reasonably be expected to have a substantial adverse effect on the proper and efficient conduct of the operations of an agency.’

### *Application of section 47E(d) of the FOI Act to the documents*

17. I have applied section 47E(d) of the FOI Act to document one. Document one contains an internal positional email address.

18. The department receives a large amount of correspondence from members of the public on a daily basis. To manage this correspondence, the department has an established range of methods in which members of the public can contact the department. These include a dedicated telephone number, mailing address and facsimile number. These methods of contact for members of the public have been established to ensure that correspondence is directed to the correct areas and actioned accordingly.

19. Disclosing these positional email addresses could reasonably be expected to have a substantial adverse effect on the proper and efficient conduct of the operations of the department as it may direct members of the public away from the correct avenues for corresponding with the department. In addition, given the dedicated points of contact currently available to members of the public, there may be confusion if other contact details became available to the public. This could reduce efficiencies and cause delays. It could also prejudice the ability of the staff members who monitor these inboxes to effectively manage correspondence.

20. For the reasons set out above, I am satisfied that a part of document one is exempt under section 47E(d) of the FOI Act, as identified in the Schedule.

### *Public interest considerations*

21. Section 11A(5) of the FOI Act provides the following:

‘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.’

22. When weighing up the public interest for and against disclosure under section 11A(5) of the FOI Act, I have taken into account relevant factors in favour of disclosure. In particular, I have considered the extent to which disclosure would promote the objects of the FOI Act.

23. I have also considered the relevant factors indicating that access would be contrary to the public interest. In particular, I have considered the extent to which disclosure could reasonably be expected to prejudice the ability of the department to manage correspondence from members of the public.

24. Based on these factors, I have decided that in the circumstances of this particular matter, the public interest in disclosing the information in document one is outweighed by the public interest against disclosure.

25. 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.
26. In summary, I am satisfied that part of document one, as set out in the Schedule, is conditionally exempt under section 47E(d) of the FOI Act. Furthermore, I have decided that on balance it would be contrary to the public interest to release this information. Accordingly, I have decided not to release this document, in full, to you.
27. As identified in the Schedule, I have deleted the exempt information this document and released the remaining material in accordance with section 22(1) of the FOI Act.

### **Release of documents**

28. Documents for release are attached to this email.

### **Rights of review**

29. I have enclosed information about your rights of review under the FOI Act at **Attachment A**.
30. Should you have any enquiries concerning this matter, please email [FOI.Legal.Team@Humanservices.gov.au](mailto:FOI.Legal.Team@Humanservices.gov.au).

Yours sincerely

FOI Delegate  
FOI and Information Release Branch  
Department of Human Services

**INFORMATION ON RIGHTS OF REVIEW**

***FREEDOM OF INFORMATION ACT 1982***

**Application for review of decision**

The *Freedom of Information Act 1982* (FOI Act) gives you the right to apply for a review of this decision. Under sections 54 and 54L of the FOI Act, you can apply for a review of this decision by:

- (i) an internal review officer in the Department of Human Services; or
- (ii) the Information Commissioner.

**Internal Review**

If you apply for internal review, it will be carried out by a different decision-maker who will make a fresh decision on your application. An application for review must be:

- made in writing;
- made within 30 days of receiving this letter; and
- sent to the address at the head of this letter.

No particular form is required, but it is desirable to set out in the application the grounds upon which you consider the decision should be reviewed.

If the internal review officer decides not to grant you access to all of the documents to which you have requested access, you have the right to seek a review of that decision by the Information Commissioner. You will be further notified of your rights of review at the time you are notified of the internal review decision.

Please note that if you apply for an internal review and a decision is not made by an internal review officer within 30 days of receiving the application, you have the right to seek review by the Information Commissioner for a review of the original FOI decision on the basis of a 'deemed refusal' decision. An application for Information Commissioner review in this situation must be made within 60 days of the date when the internal review decision should have been made (provided an extension of time has not been granted or agreed).

## **Information Commissioner review**

You must apply in writing within 60 days of the receipt of the decision letter and you can lodge your application in one of the following ways:

Online: <a href="http://www.oaic.gov.au">www.oaic.gov.au</a> Post: GPO Box 2999, Canberra ACT 2601 Fax: +61 2 9284 9666 Email: <a href="mailto:enquiries@oaic.gov.au">enquiries@oaic.gov.au</a>
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If a person has sought an internal review and no result of that review is provided within 30 days, then the applicant may apply to the Information Commissioner to review the matter.

An application form is available on the website at [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.

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

### ***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](http://www.ombudsman.gov.au)

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

### ***Information Commissioner***

You may also 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](http://www.oaic.gov.au)

## **Office of the Australian Information Commissioner (OAIC) is disbanding**

**Please note:** The Australian Government announced as part of the 2014–15 Budget that the Office of the Australian Information Commissioner (OAIC) will be disbanded. The OAIC remains operational until further notice.

For further information on how the OAIC will deal with IC reviews and FOI complaints please visit their website at [www.oaic.gov.au](http://www.oaic.gov.au)



## ATTACHMENT B

### SCHEDULE OF DOCUMENTS

#### LEX 12159 – Fairless

Doc No.	Pages	Date	Description	Decision	Exemption	Comments
1.	1 – 4	5/09/2013	Attachment A	Access granted in part	S 47E(d)	Positional email address on page 4
2.	5 – 8	Undated	Instructions for prisons (sic.) registering, receiving and sending encryption email to the Department of Human Services	Access granted in full		Irrelevant material deleted under section 22
3.	9 – 18	Undated	User Guide for the PGP secure mail solution	Access granted in full		