



Australian Government
Department of Immigration and Border Protection

File No: 2013/040771

1 July 2015



Dear [REDACTED]

Request for access to documents – Freedom of Information Act 1982 (FOI Act)

I refer to your email dated 4 December 2013 in which you requested access to documents held by the Australian Customs and Border Protection Service (ACBPS) under the *Freedom of Information Act 1982* (the FOI Act).

As of 1 July 2015, ACBPS consolidated with the Department of Immigration and Border Protection (the Department). As such, whilst your request has been processed by ACBPS in relation to documents in the possession of ACBPS at the date your request was received, a decision is now being made in relation to your request by the Department.

Scope of Request

You requested access to the following documents:

'All documents relating to the case of the Indonesian Nationals being caught with birds at Richmond Air Force Base near Sydney and in Darwin in late November 2013. This should include all emails, reports, briefs, advice, legal advice, media handling, subsequent reports, etc. for the department and the minister's office.'

On 17 December 2013, you agreed to modify the scope of your request as follows:

"All documents held by the Compliance and Enforcement Division concerning the Indonesian nationals being caught with birds at Richmond Air Force Base near Sydney and in Darwin in late November 2013 including all emails, reports, briefs, advice, legal advice, media handling, subsequent reports, etc., for the department and the minister's office".

Consultation

ACBPS consulted a number of third parties under section 27A and 27 of the FOI Act in addition to a number of Commonwealth and state agencies. It appeared that the third parties might reasonably wish to make an exemption contention because of personal information and business affairs information in the documents.

The third parties consulted made submissions contending that the release of some information contained within the documents is conditionally exempt under section 47F and 47G of the FOI Act, and that access to the documents, on balance, would be contrary to the public interest.

In making my decision, I have considered carefully the submissions made by the third parties objecting to the release of the personal information and business affairs information.

Decision on access

I am authorised under section 23 of the FOI Act to make decisions to release and to refuse access to exempt documents.

ACBPS has identified 134 documents that fall within the scope of your request. These documents were in the possession of ACBPS on 4 December 2013 when your FOI request was received.

I make the following decision in relation to the documents in the possession of ACBPS which come within the scope of your request:

- Release 5 documents in full;
- Release 127 documents in part with deletions, and
- Exempt 2 document in full from disclosure.

A schedule of these documents is at **ATTACHMENT A** for your reference.

I have considered whether the exempt material could be redacted under section 22 of the FOI Act from the documents that were not released so that parts of the documents could be made available to you. I have concluded that if the exempt material were to be redacted from those documents, the documents would be left without much substance and potentially meaningless.

I have provided detailed reasons for my decision below.

Reasons for Decision

The schedule of the 134 documents that fall within the scope of your request at Attachment A sets out the decision on access and, where appropriate, refers to various sections of the FOI Act. My reasoning in relation to the application of each section to particular documents is set out below. References to the ACBPS in my reasoning below also apply to the Department from 1 July 2015.

1 Section 22 of the FOI Act – Irrelevant Material

An agency may delete from a document, before release, information that would be 'reasonably regarded as irrelevant to that request' (s 22(1)(a)(ii)), so that a copy of the document not containing that material can be disclosed.

I have considered the documents that fall within your request and I have formed the view that documents numbered 2-3, 43-45, 50, 96, 100-101, 117, 126 and 133 comprise content that would reasonably be viewed as irrelevant in relation to the terms of your request. The remainder of those documents have been considered for release to you as they fall within the scope of your request.

2 Section 33 of the FOI Act – Documents affecting International Relations

Section 33(a)(iii) of the FOI Act permits exemption of a document or part of a document if disclosure of the information in the document would, or could reasonably be expected to cause damage to the international relations of the Commonwealth.

I have decided that parts of documents numbered 15-16, 49, 65, 68-70, 76, 82, 89, 97, 99, 101-103, 108, 111, 114, 121, 124, 126 and 131 are exempt from disclosure under section 33(a)(iii) of the FOI Act.

The phrase 'international relations' has been interpreted as meaning the ability of the Australian Government to maintain good working relations with other governments and international organisations and to protect the flow of confidential information between them.

I consider that the disclosure of parts of these documents would disclose information that may impact on Australia's relations with foreign states and undermine any potential cooperation or agreement on border control issues. Disclosure of this information may undermine the operational engagement related to broader law enforcement, particularly the effective communication, and security issues at an international level.

The Department of Foreign Affairs and Trade has been consulted in relation to this information, and supports the contention that it is exempt under section 33(a)(iii) of the FOI Act. I afford significant weight to the views by those whose role it is to ensure that Australia's pursuit of its global, regional and bilateral interests is coordinated effectively.

3 Section 37 of the FOI Act – Enforcement of Law and Protection of Public Safety

Section 37(2)(b) of the FOI Act provides that a document is exempt from disclosure if its disclosure would, or could reasonably be expected to disclose lawful methods or procedures for preventing, detecting, investigating, or dealing with matters arising out of breaches or evasions of the law the disclosure of which would, or would be reasonably likely to, prejudice the effectiveness of those methods or procedures.

I consider that parts of document numbered 84 would, or could reasonably be expected to disclose lawful methods or procedures for preventing or detecting breaches or evasions of the law and that disclosure would, or would reasonably likely to, prejudice the effectiveness of those methods or procedures.

It is noted that ACBPS's role includes managing the security and integrity of Australia's borders. ACBPS leads the management of risks to Australia's border in close collaboration with other government agencies, including State and Federal law enforcement agencies. As such, ACBPS's role includes law enforcement functions.

The disclosure of information within this document would be reasonably likely to impact on ongoing investigative methodology and relationships with partner agencies that support Australian government investigative capabilities. The release of this information would prejudice the effectiveness of those methods or procedures, assisting endeavours to evade them and thereby reducing the ability of ACBPS and other law enforcement agencies to protect the borders of Australia.

I have decided that this information is exempt from disclosure under section 37(2)(b) of the FOI Act.

4 Section 42 of the FOI Act – Legal Professional Privilege

I have decided that parts of documents numbered 14-16, 21, 23, 25-27, 29, 31-33, 35, 40-41, 68-70, 76, 102-103 and 114 are exempt from disclosure as those documents comprise confidential communications passing between ACBPS and its legal advisers, the Commonwealth Director of Public Prosecutions, for the dominant purpose of receiving legal advice or is information summarising the content of legal advice provided.

The content of these documents are not part of the rules, guidelines, practices or precedents relating to the decisions and recommendations of ACBPS. The documents do not fall within the definition of operational information and remain subject to legal professional privilege.

5 Section 47C of the FOI Act – Deliberative Processes

Section 47C of the FOI Act permits conditional exemption of a document if its disclosure would disclose 'deliberative matter'. Deliberative matter includes opinion, advice or recommendation obtained, prepared or recorded, or consultation or deliberation that has taken place, in the deliberative processes of an agency.

A 'deliberative process' has previously been described as 'the process of reflection, for example, upon the wisdom and expediency of a proposal, a particular decision or a course of action.'¹

I consider that documents numbered 25-29, 31-35, 38, 40-42, 67, 71, 73 and 112-113 contain opinions and recommendations prepared or recorded in the course of, or for the purposes of, the deliberative processes.

¹ See *JE Waterford and Department of Treasury (No 2)* [1984] AATA 67.

The documents which I consider to be conditionally exempt under section 47C of the FOI Act include draft versions of Talking Points prepared and circulated for comment by the ACBPS and other agencies.

Each of the documents described above formed part of the ‘thinking process’ of the ACBPS and other relevant agencies about the most effective means to respond to queries about the investigation. This deliberative process involved the exchange of opinions, advice and recommendations on the content of the Talking Points and relates to the ACBPS function of how investigations are consulted. The draft versions deal with information that was to hand at the time and was subsequently clarified and refined.

I have considered whether these documents contain ‘operational information’ (defined in section 8A of the FOI Act) or purely factual material. I am satisfied that the documents do not contain such information.

I have therefore decided that parts of the documents referred to above are conditionally exempt under section 47C of the FOI Act.

6 Section 47E of the FOI Act – Operations of Agencies

Section 47E(d) of the FOI Act provides that documents are conditionally exempt if disclosure would, or could reasonably be expected to, have a substantial adverse effect on the proper and efficient conduct of the operations of an agency.

I consider that the disclosure of parts of documents 1-7, 9, 21, 23, 25-27, 29, 31, 33, 35, 40, 43, 52-54, 57-58, 60, 62, 84, 87-92, 94-97, 99-101, 104, 117, 126-127 and 130 and the placing of that information in the public domain would, or could reasonably be expected to, have a substantial adverse effect on the proper and efficient conduct of the operations of ACBPS. Managing the security and integrity of Australia’s borders is integral to the operations of ACBPS. Any prejudice to the effectiveness of operational activity would result in a substantial adverse effect on the operations of ACBPS.

Information in these documents deals with ACBPS methodologies for conducting investigations, examining and interacting with individuals and cargo crossing Australia’s border and the access to and use of certain IT systems, including access pathways.

The disclosure of this conditionally exempt information may be reasonably expected to undermine the tactical advantage that ACBPS have over border control. Any prejudice to the effectiveness of those operational activities would, or could reasonably be expected to cause, ACBPS to change or divert the conduct of border protection activities.

Accordingly, I have decided that parts of the documents referred to above are conditionally exempt under section 47E(d) of the FOI Act.

7 Section 47F of the FOI Act – Personal Privacy

Section 47F of the FOI Act provides that a document is conditionally exempt if its disclosure would involve the unreasonable disclosure of personal information of any person. ‘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 whether the information or opinion is recorded in a material form or not (see s 4 of the FOI Act and s 6 of the *Privacy Act 1988*).

I consider that disclosure of parts of documents numbered 1-65, 67-71, 73-76, 78-84 and 87-134 would disclose personal information relating to third parties, ACBPS employees and employees of other agencies. Most of the paragraphs contain information which would reasonably identify a person, for the most part through names and contact information.

Section 47F(2) of the FOI Act provides that an agency must have regard to certain factors in determining whether disclosure of a document would involve the ‘unreasonable’ disclosure of personal information. I consider that the disclosure of the personal information within these documents would involve an unreasonable disclosure of personal information.

In relation to the Indonesian nationals, I note the fact that those individuals’ names are not available through publicly accessible sources. I consider that identifying those individuals would be unreasonable in the circumstances.

With respect to the employee information, I consider that disclosure of the personal information in question would be unreasonable in the circumstances. The majority of the individuals identified in the documents are not publicly known to be associated with the subject matter. Further, the relevant officers work in an operational environment in investigations and disclosure of their identifying information would be unreasonable. I do not consider that the disclosure of names and personally identifying information which does not reveal any matter of substance concerning the performance of public duties would shed light on the workings of ACBPS or enhance accountability or transparency. This appears to be a case in which the personal information is of no direct relevance to the affairs of government. Further, such disclosure would disproportionately interfere with the privacy of employees of ACBPS and other Government agencies. This particularly includes information such as personal contact details.

I consider that the disclosure of the information within these documents would involve an unreasonable disclosure of personal information about a number of individuals.

I have decided that parts of the documents referred to above are conditionally exempt under section 47F of the FOI Act.

8 Section 47G(1)(a) of the FOI Act – Business Affairs

Section 47G(1)(a) of the FOI Act permits conditional exemption of documents containing business information where disclosure of that information would, or could reasonably be expected to, unreasonably affect an organisation adversely in respect of its lawful business, commercial or financial affairs.

I have considered that parts of documents numbered 1-6, 9, 23, 43, 49, 52-54, 58, 80, 87, 89-91, 95-96, 99-101, 104, 117-118 and 126 contains information concerning the business, commercial or financial affairs of a number of organisations. The information includes work specifications and dollar amounts charged for services. These facts are not in the public domain. They are also identifying details of a third party business entity. Disclosure of this information would, or could reasonably be expected to, unreasonably affect those organisations in respect of their lawful business, commercial or financial affairs.

I have decided that parts of the documents referred to above are conditionally exempt under section 47G(1)(a) of the FOI Act.

9 The public interest – section 11A of the FOI Act

As I have decided that parts of some documents are conditionally exempt, I am now required to consider whether access to the conditionally exempt information in those documents would be contrary to the public interest (section 11A of the FOI Act).

A part of a document which is conditionally exempt must also meet the public interest test in section 11A(5) before an exemption may be claimed in respect of that part.

In summary, the test is whether access to the conditionally exempt part of the document would be, on balance, contrary to the public interest.

In applying this test, I have noted the objects of the FOI Act and the importance of the other factors listed in section 11B(3) of the FOI Act, being whether access to the document would do any of the following:

- (a) promote the objects of this Act (including all the matters set out in sections 3 and 3A);*
- (b) inform debate on a matter of public importance;*
- (c) promote effective oversight of public expenditure;*
- (d) allow a person to access his or her own personal information.*

Having regard to the above:

- I am satisfied that access to the documents would promote the objects of the FOI Act.
- I consider that the subject matter of the documents may have the character of public importance. The matter may be of interest to some sections of the public given previous media interest.

- I consider that limited insights into public expenditure will be provided through examination of the documents.
- I am satisfied that you do not require access to the documents in order to access your own personal information.

Disclosure of all aspects of the documents would not provide a person with sufficient information to assess the rigour or efficiencies of internal decision making processes within ACBPS, promote scrutiny of government decision making or reveal the reasoning for a government decision. I consider these considerations as neutral.

I have also considered the factors that weigh against the release of the conditionally exempt information in the documents:

Section 47C

- I consider that disclosure of the draft versions of the Talking Points and associated correspondence about the amendments to the draft versions would make a very limited contribution to the public interest in the issue involved in this matter.
- The draft versions of the Talking Points deal with information that was to hand at the time and was subsequently clarified and refined. There is public interest in maintaining good working relations with our international counterparts. Disclosing information which deals with opinions about constructing Talking Points relating to foreign nationals, before a decision or conclusion has been reached at the end of that deliberative process, could prejudice the working relations with our international counterparts. These factors weigh against disclosure of this information.

Section 47E(d)

- I consider that the disclosure of the parts of the documents that are conditionally exempt under section 47E(d) of the FOI Act could reasonably be expected to prejudice law enforcement functions and, as a result, the ability of ACBPS to protect Australia's borders. I consider that this factor weighs heavily against disclosure.
- The disclosure of ACBPS investigation and border clearance methodologies could reasonably be expected to prejudice the use of those methodologies in future border operations. The disclosure of this information may result in individuals modifying behaviours to circumvent ACBPS border clearance processes.
- I consider that the disclosure to the world at large of the conditionally exempt information contained within some of the documents would have a substantial adverse effect on the IT Network of ACBPS. This conditionally exempt information is of value to individuals or organisations who may be interested in crafting a hostile cyber security attack on the IT systems of

ACBPS. I consider that this factor weighs heavily against disclosure of this conditionally exempt information.

Section 47F

- The disclosure of the personal information of individuals contained in the documents, including third parties and the Indonesian nationals, could reasonably be expected to prejudice the protection of those individuals' right to privacy.
- Disclosing the names of ACBPS officers who work in an operational environment may invite inappropriate approaches by third parties and may prejudice the safety of those officers and their families when the documents are made available to the public at large. It is my view that it is firmly in the public interest to uphold the rights of individuals to their own privacy and also to maintain the privacy and safety of operational officers. I consider that this factor weighs heavily against disclosure.
- I have carefully considered the factors identified above, and have concluded that the public interest in protecting the right to privacy of third parties outweighs the considerations in favour of disclosure. In weighing the public interest, I have considered the fact that release of the information, in particular, employee information, would not reasonably assist a member of the public in understanding the content of the documents in question.

Section 47G

- I consider that the disclosure of the parts of the document that are conditionally exempt under section 47G of the FOI Act could reasonably be expected to prejudice the competitive commercial activities of third party organisations. I consider that this factor weighs heavily against disclosure.

I have also had regard to section 11B(4) which sets out the factors which are irrelevant to my decision, which are:

- (a) access to the document could result in embarrassment to the Commonwealth Government, or cause a loss of confidence in the Commonwealth Government;*
- (b) access to the document could result in any person misinterpreting or misunderstanding the document;*
- (c) the author of the document was (or is) of high seniority in the agency to which the request for access to the document was made;*
- (d) access to the document could result in confusion or unnecessary debate.*

I have not taken into account any of those factors in this decision.

Upon balancing all of the above relevant public interest considerations, I have concluded that the disclosure of the conditionally exempt information in the

documents is not in the public interest and therefore exempt from disclosure under the FOI Act.

Legislation

I have attached an extract of the exemption provisions of the FOI Act and the public interest test for your information at **ATTACHMENT B**.

Your Review Rights

The FOI Act grants you rights to have my decision reviewed.

Information regarding your review rights is available in the Office of the Australian Information Commissioner's FOI Fact Sheet 12 at **ATTACHMENT C** for your reference.

Making a Complaint

FOI fact sheet 13 from the OAIC is at **ATTACHMENT D** for your reference. This sets out how you may complain to the Australian Information Commissioner if you have concerns about how ACBPS has handled your request for documents under the FOI Act.

Contact

Should you wish to discuss my decision, please do not hesitate to contact the FOI section at foi@border.gov.au.



Kiri Ross-McNair
Authorised Decision Maker
Department of Immigration and Border Protection

ATTACHMENT A

Schedule of Documents

	Date of document	No. of pages	Description	Decision on release	
1.	29/11/2013	1	Email – Richmond RAAF Wildlife	s 47E(d) s 47F s 47G(1)(a)	Release in part
2.	28/11/2013	3	Email - Richmond RAAF wildlife	s 22(1)(a)(ii) s 47E(d) s 47F s 47G(1)(a)	Release in part
3.	28/11/2013	5	Email - Richmond RAAF wildlife	s 22(1)(a)(ii) s 47E(d) s 47F s 47G(1)(a)	Release in part
4.	28/11/2013	4	Email - Richmond RAAF wildlife	s 47E(d) s 47F s 47G(1)(a)	Release in part
5.	28/11/2013	4	Email - Richmond RAAF wildlife	s 47E(d) s 47F s 47G(1)(a)	Release in part
6.	28/11/2013	4 and attachment	Email - Richmond RAAF wildlife	s 47E(d) s 47F s 47G(1)(a)	Release in part
7.	28/11/2013	2	Email - Richmond detection Galahs	s 47E(d) s 47F	Release in part
8.	28/11/2013	1	Email - DFAT contact	s 47F	Release in part
9.	28/11/2013	4	Email - Richmond RAAF wildlife	s 47E(d) s 47F s 47G(1)(a)	Release in part
10.	28/11/2013	1	Email - Darwin have found two more birds	s 47F	Release in part
11.	28/11/2013	1	Email - Indonesian Aircrew – Australian Wildlife	s 47F	Release in part
12.	28/11/2013	2	Email - Darwin issue	s 47F	Release in part
13.	28/11/2013	2 and attachment	Email - FW:– bird photo	s 47F	Release in part
14.	28/11/2013	2	Email - For your review: SOE	s 42 s 47F	Release in part
15.	28/11/2013	4	Email - For your review: SOE	s 33(a)(iii) s 42 s 47F	Release in part
16.	28/11/2013	2	Email - Latest from Darwin	s 33(a)(iii) s 42 s 47F	Release in part
17.	29/11/2013	1 and attachment	Email – FW:	s 47F	Release in part

	Date of document	No. of pages	Description	Decision on release	
18.	29/11/2013	1 and attachment	Email - can you let me know when we have an update chronology	s 47F	Release in part
19.	29/11/2013	1 and attachment	Email - can you let me know when we have an update chronology	s 47F	Release in part
20.	29/11/2013	3 and attachment	Email - enquiry re Hercules	s 47F	Release in part
21.	29/11/2013	1	Email - Decision making process	s 42 s 47E(d) s 47F	Release in part
22.	29/11/2013	1 and attachment	Email - Galahs on C-130's	s 47F	Release in part
23.	29/11/2013	3 and attachment	Email - DRAFT talking points for advice and clearance	s 42 s 47E(d) s 47F s 47G(1)(a)	Release in part
24.	29/11/2013	2 and attachment	Email - ACBPS Statement - Allegations of wildlife smuggling	s 47F	Release in part
25.	29/11/2013	3 and attachment	Email - DRAFT talking points for advice and clearance	s 42 s 47C s 47E(d) s 47F	Release in part
26.	29/11/2013	3	Email - DRAFT talking points for advice and clearance	s 42 s 47C s 47E(d) s 47F	Release in part
27.	29/11/2013	4	Email - DRAFT talking points for advice and clearance	s 42 s 47C s 47E(d) s 47F	Release in part
28.	29/11/2013	2	Email - Talking points for MIBP	s 47C s 47F	Release in part
29.	29/11/2013	5	Email - DRAFT talking points for advice and clearance	s 42 s 47C s 47E(d) s 47F	Release in part
30.	29/11/2013	2 and attachment	Email - Galahs on c-130's	s 47F	Release in part
31.	29/11/25013	4 and attachment	Email - DRAFT talking points for advice and clearance	s 42 s 47C s 47E(d) s 47F	Release in part
32.	29/11/2013	2	Email - Talking points for MIBP	s 42 s 47C s 47F	Release in part
33.	29/11/2013	6	Email - DRAFT talking points for advice and clearance	s 42 s 47C s 47E(d) s 47F	Release in part
34.	29/11/2013	3	Email - Talking points for MIBP	s 47C s 47F	Release in part

	Date of document	No. of pages	Description	Decision on release	
35.	29/11/2013	5	Email - DRAFT talking points for advice and clearance	s 42 s 47C s 47E(d) s 47F	Release in part
36.	29/11/2013	1 and attachment	Sequence of Events @ 1000 AEDST 29NOV2013	s 47F	Release in part
37.	29/11/2013	1	News Article - Two questioned over wildlife smuggling	s 47F	Release in part
38.	29/11/2013	3	TNI ID	s 47C s 47F	Release in part
39.	29/11/2013	1	Indonesia galah story	s 47F	Release in part
40.	29/11/2013	7	Email - DRAFT talking points for advice and clearance	s 42 s 47C s 47E(d) s 47F	Release in part
41.	29/11/2013	3	Query	s 42 s 47C s 47F	Release in part
42.	29/11/20123	2 and attachment	Media release - allegations of wildlife smuggling	s 47C s 47F	Release in part
43.	30/11/2013	2	Email - Export of birds by Indonesian air force personnel	s 22(1)(a)(ii) s 47E(d) s 47F s 47G(1)(a)	Release in part
44.	02/12/2013	3 and attachment	Email - FOR URGENT ACTION: New QTB - Smuggled Galahs	s 22(1)(a)(ii) s 47F	Release in part
45.	02/12/2013	3 and attachment	Email - Cleared QTB - Smuggled Galahs	s 22(1)(a)(ii) s 47F	Release in part
46.	06/12/2013	1	Email - Indonesian air force pilots face parrot smuggling probe	s 47F	Release in part
47.	02/12/2013	2	Email - Indian ring neck parrots	s 47F	Release in part
48.	03/12/2013	1 and attachment	Email - Logged Accounts Payable Invoice - Ref 1544453	s 47F	Release in part
49.	06/12/2013	1	NIS text	s 33 (a)(iii) s 47F s 47G(1)(a)	Release in part
50.	03/12/2013	2	Email - Logged Accounts Payable Invoice - Ref 1544453	s 22(1)(a)(ii) s 47F	Release in part
51.	28/11/2013	1 and attachment	Email - Document in H:\Contacts\101104 Investigation Contact List updated 2010.doc	s 47F	Release in part
52.	28/11/2013	4 and attachment	Email - Richmond RAAF Wildlife	s 47E(d) s 47F s 47G(1)(a)	Release in part

	Date of document	No. of pages	Description	Decision on release	
53.	28/11/2013	2	Email - Richmond detection Galahs - IR 19032011	s 47E(d) s 47F s 47G(1)(a)	Release in part
54.	28/11/2013	2	Email - IR 19032011	s 47E(d) s 47F s 47G(1)(a)	Release in part
55.	28/11/2013	2	Email - Indonesian Aircrew - Australian Wildlife	s 47F	Release in part
56.	28/11/2013	1	Email - Indonesian flight	s 47F	Release in part
57.	28/11/2013	2	Email - questions	s 47E(d) s 47F	Release in part
58.	28/11/2013	3	Email - Richmond RAAF Wildlife	s 47E(d) s 47F s 47G(1)(a)	Release in part
59.	28/11/2013	1 and attachment	Email - [DLM=For-Official-Use-Only]	s 47F	Release in part
60.	28/11/2013	1	Email - photos	s 47E(d) s 47F	Release in part
61.	28/11/2013	4	Email - Possible imminent smuggling of five galahs – RAAF Base Richmond	s 47F	Release in part
62.	29/11/2013	1 with attachment	Email - NIS report 19032011	s 47E(d) s 47F	Release in part
63.	28/11/2013	1 and attachment	Email - Sent from snipping tool	S 47F	Release in part
64.	28/11/2013	1 and attachment	Email - Sent from snipping tool	s47F	Release in part
65.		4	Attachment to document 6	s 33 (a)(iii) s 47F	Exempt in full
66.		1	Attachment to document 13	NA	Release in Full
67.		2	Attachment to document 17	s 47C s 47F	Release in part
68.		3	Attachment to document 18	s 33(a)(iii) s 42 s 47F	Release in part
69.		3	Attachment to document 19	s 33(a)(iii) s 42 s 47F	Release in part
70.		3	Attachment to document 22	s 33(a)(iii) s 42 s 47F	Release in part
71.		2	Attachment to document 23	s 47C s 47F	Release in part
72.		1	Attachment to document 24	NA	Release in full
73.		2	Attachment to document 25	s 47C s 47F	Release in part
74.		2	Attachment to document 30	s 47F	Release in part

	Date of document	No. of pages	Description	Decision on release	
75.	29/11/2013	4	Attachment to document 31	s 47F	Release in part
76.	29/11/2013	3	Attachment to document 36	s 33(a)(iii) s 42 s 47F	Release in part
77.	29/11/2013	1	Attachment to document 42	NA	Release in full
78.	2/12/2013	3	Attachment to document 44	s 47F	Release in part
79.	2/12/2013	3	Attachment to document 45	s 47F	Release in part
80.	2/12/2013	2	Attachment to document 48	s 47F s 47G(1)(a)	Release in part
81.	28/11/2013	1	Attachment to document 51	s 47F	Release in part
82.		4	Attachment to document 52	s 33 (a)(iii) s 47F	Exempt in full
83.	28/11/2013	10	Attachment to document 59	s 47F	Release in part
84.	29/11/2013	3	Attachment to document 62	s 37(2)(b) s 47E(d) s 47F	Release in part
85.		1	Attachment to document 63	NA	Release in full
86.		1	Attachment to document 64	NA	Release in full
87.	2/12/2013	5	CRIMS Case report CSE002919	s 47E(d) s 47F s 47G(1)(a)	Release in part
88.	29/11/2013	2	CRIMS traveller details	s 47E(d) s 47F	Release in part
89.	29/11/2013	10	CRIMS Case report CSE002918	s 33(a)(iii) s 47E(d) s 47F s 47G(1)(a)	Release in part
90.	28/11/2013	2	Richmond RAAF wildlife	s 47E(d) s 47F s 47G(1)(a)	Release in part
91.	29/11/2013	3	CRIMS referral report REF020532	s 47E(d) s 47F s 47G(1)(a)	Release in part
92.	29/11/2013	3	CRIMS referral report REF020536	s 47E(d) s 47F	Release in part
93.	29/11/2013	1	Warning letter	s 47F	Release in part
94.	29.11.2013	2	E-mail – Wildlife	s 47E(d) s 47F	Release in part
95.	28.11.2013	3	Email - Richmond RAAF Wildlife	s 47E(d) s 47F s 47G(1)(a)	Release in part

	Date of document	No. of pages	Description	Decision on release	
96.	28.11.2013	4	Email – Richmond RAAF Wildlife	s 22(1)(a)(ii) s 47E(d) s 47F s 47G(1)(a)	Release in part
97.	28.11.2013	2	Email – Indonesia Issue	s 33(a)(iii) s 47E(d) s 47F	Release in part
98.	28.11.2013	1	Email – Indonesia Aircrew – Australian wildlife	s 47F	Release in part
99.	28.11.2013	4	Email – Richmond Wildlife	s 33(a)(iii) s 47E(d) s 47F s 47G(1)(a)	Release in part
100.	28.11.2013	4	Email – Richmond RAAF Wildlife	s 22(1)(a)(ii) s 47E(d) s 47F s 47G(1)(a)	Release in part
101.	28.11.2013	9	CNOC Ops Log: Galahs possible being exported to Indonesia	s 22(1)(a)(ii) s 33(a)(iii) s 47E(d) s 47F s 47G(1)(a)	Release in part
102.	29.11.2013	3	Sequence of events as at 2320 hours, Thursday 28Nov2013	s 33(a)(iii) s 42 s 47F	Release in Part
103.	29.11.2013	3	Sequence of events as at 2320 hours, Thursday 28Nov2013	s 33(a)(iii) s 42 s 47F	Release in Part
104.	29.11.2013	3	Email - Wildlife	s 47E(d) s 47F s 47G(1)(a)	Release in part
105.	29.11.2013	2	Email – Birds	s 47F	Release in part
106.	29.11.2013	2	Email – Aircraft now departed	s 47F	Release in part
107.	29.11.2013	2	Email – Birds	s 47F	Release in part
108.	29.11.2013	2	Email –Contact made regarding departure 29/11/2013	s 33(a)(iii) s 47F	Release in part
109.	29.11.2013	1	Email – Fauna Darwin	s 47F	Release in part
110.	28.11.2013	1	Email – Fauna seizure	s 47F	Release in part
111.	28.11.2013	1	Email – Fauna seizure	s 33(a)(iii) s 47F	Release in part

	Date of document	No. of pages	Description	Decision on release	
112.	28.11.2013	2	Email – 131128 – Talking Points SEQUENCE OF EVENTS – TC Version	s 47C s 47F	Release in part
113.	28.11.2013	1	Australian Customs and Border Protection Service (ACBPS) Talking Points – Indonesian Issue	s 47C s 47F	Release in part
114.	28.11.2013	2	Sequence of events as at 2120 hours, Thursday 28NOV2013	s 33(a)(iii) s 42 s 47F	Release in Part
115.	28.11.2013	2	SEQUENCE OF EVENTS – TC Version	s 47F	Release in part
116.	28.11.2013	2	Email – talking points	s 47F	Release in part
117.	28.11.2013	3	Email – Richmond RAAF Wildlife	s 22(1)(a)(ii) s 47E(d) s 47F s 47G(1)(a)	Release in part
118.	28.11.2013	2	Email – Richmond detection Galahs – IR 19032011	s 47F s 47G(1)(a)	Release in part
119.	28.11.2013	2	Email – Cage	s 47F	Release in part
120.	28.11.2013	2	Email – RE:	s 47F	Release in part
121.	28.11.2013	1	Email – Fauna seizure	s 33(a)(iii) s 47F	Release in part
122.	28.11.2013	1	Email – Fauna seizure	s 47F	Release in part
123.	29.11.2013	1	Email – Fauna Darwin	s 47F	Release in part
124.	29.11.2013	2	Email –Contact made regarding departure 29/11/2013	s 33(a)(iii) s 47F	Release in part
125.	29.11.2013	1	Email – Aircraft now departed	s 47F	Release in part
126.	29.11.2013	24	CNOC Log: Title – Galahs possibly being exported to Indonesia.	s 22(1)(a)(ii) s 33(a)(iii) s 47E(d) s 47F s 47G(1)(a)	Release in part
127.	28/11/2013	11	Email and attachment - RAAF Richmond	s 47E(d) s 47F	Release in part
128.	28/11/2013	1	Email - RAAF Darwin	s 47F	Release in part
129.	28/11/2013	1	Email - CEO message about media	s 47F	Release in part
130.	28/11/2013	2	Final outcome	s 47E(d) s 47F	Release in part
131.	29/11/2013	1	Email	s 33(a)(iii) s 47F	Release in part

	Date of document	No. of pages	Description	Decision on release	
132.	29/11/2013	1	Email - AOD staff thanked by Invest	s 47F	Release in part
133.	2/12/2013	25	Email and attachment Media clip	s 22(1)(a)(ii) s 47F	Release in part
134.	4/12/2013	3	Email - Media release/statement	s 47F	Release in part

ATTACHMENT B

Relevant Legislation

Section 33 - Documents affecting national security, defence or international relations

A document is an exempt document if disclosure of the document under this Act:

- (a) would, or could reasonably be expected to, cause damage to:
...
- (iii) the international relations of the Commonwealth; or

Section 37 - Documents affecting enforcement of law and protection of public safety

...

- (2) A document is an exempt document if its disclosure under this Act would, or could reasonably be expected to:
 - (a) prejudice the fair trial of a person or the impartial adjudication of a particular case;
 - (b) disclose lawful methods or procedures for preventing, detecting, investigating, or dealing with matters arising out of, breaches or evasions of the law the disclosure of which would, or would be reasonably likely to, prejudice the effectiveness of those methods or procedures; or

...

Section 42 - Documents subject to legal professional privilege

- (1) A document is an exempt document if it is of such a nature that it would be privileged from production in legal proceedings on the ground of legal professional privilege.
- (2) A document is not an exempt document because of subsection (1) if the person entitled to claim legal professional privilege in relation to the production of the document in legal proceedings waives that claim.
- (3) A document is not an exempt document under subsection (1) by reason only that:
 - (a) the document contains information that would (apart from this subsection) cause the document to be exempt under subsection (1); and
 - (b) the information is operational information of an agency.

Section 47C - Public interest conditional exemptions—deliberative processes

General rule

- (1) A document is conditionally exempt if its disclosure under this Act would disclose matter (deliberative matter) in the nature of, or relating to, opinion, advice or recommendation obtained, prepared or recorded, or consultation or deliberation that has taken place, in the course of, or for the purposes of, the deliberative processes involved in the functions of:
 - (a) an agency; or
 - (b) a Minister; or
 - (c) the Government of the Commonwealth; or
 - (d) the Government of Norfolk Island.

Exceptions

- (2) Deliberative matter does not include either of the following:
 - (a) operational information (see section 8A);
 - (b) purely factual material.
- (3) This section does not apply to any of the following:
 - (a) reports (including reports concerning the results of studies, surveys or tests) of scientific or technical experts, whether employed within an agency or not, including reports expressing the opinions of such experts on scientific or technical matters;
 - (b) reports of a body or organisation, prescribed by the regulations, that is established within an agency;
 - (c) the record of, or a formal statement of the reasons for, a final decision given in the exercise of a power or of an adjudicative function.

Section 47E - Public interest conditional exemptions—certain operations of agencies

A document is conditionally exempt if its disclosure under this Act would, or could reasonably be expected to, do any of the following:

...

- (d) have a substantial adverse effect on the proper and efficient conduct of the operations of an agency.

Section 47F - Public interest conditional exemptions—personal privacy

- (1) A document is conditionally exempt if its disclosure under this Act would involve the unreasonable disclosure of personal information about any person (including a deceased person).
- (2) In determining whether the disclosure of the document would involve the unreasonable disclosure of personal information, an agency or Minister must have regard to the following matters:
 - (a) the extent to which the information is well known;
 - (b) whether the person to whom the information relates is known to be (or to have been) associated with the matters dealt with in the document;
 - (c) the availability of the information from publicly accessible sources;
 - (d) any other matters that the agency or Minister considers relevant.
- (3) Subject to subsection (5), subsection (1) does not have effect in relation to a request by a person for access to a document by reason only of the inclusion in the document of matter relating to that person.

...

Section 47G - Public interest conditional exemptions—business

- (1) A document is conditionally exempt if its disclosure under this Act would disclose information concerning a person in respect of his or her business or professional affairs or concerning the business, commercial or financial affairs of an organisation or undertaking, in a case in which the disclosure of the information:

- (a) would, or could reasonably be expected to, unreasonably affect that person adversely in respect of his or her lawful business or professional affairs or that organisation or undertaking in respect of its lawful business, commercial or financial affairs; or
 - (b) could reasonably be expected to prejudice the future supply of information to the Commonwealth, Norfolk Island or an agency for the purpose of the administration of a law of the Commonwealth or of a Territory or the administration of matters administered by an agency.
- (2) Subsection (1) does not apply to trade secrets or other information to which section 47 applies.
 - (3) Subsection (1) does not have effect in relation to a request by a person for access to a document:
 - (a) by reason only of the inclusion in the document of information concerning that person in respect of his or her business or professional affairs; or
 - (b) by reason only of the inclusion in the document of information concerning the business, commercial or financial affairs of an undertaking where the person making the request is the proprietor of the undertaking or a person acting on behalf of the proprietor; or
 - (c) by reason only of the inclusion in the document of information concerning the business, commercial or financial affairs of an organisation where the person making the request is the organisation or a person acting on behalf of the organisation.
 - (4) A reference in this section to an undertaking includes a reference to an undertaking that is carried on by, or by an authority of, the Commonwealth, Norfolk Island or a State or by a local government authority.
 - (5) For the purposes of subsection (1), information is not taken to concern a person in respect of the person's professional affairs merely because it is information concerning the person's status as a member of a profession.

11B - Public interest exemptions—factors

- (1) This section applies for the purposes of working out whether access to a conditionally exempt document would, on balance, be contrary to the public interest under subsection 11A(5).
- (2) This section does not limit subsection 11A(5).

Factors favouring access

- (3) Factors favouring access to the document in the public interest include whether access to the document would do any of the following:
 - (a) promote the objects of this Act (including all the matters set out in sections 3 and 3A);
 - (b) inform debate on a matter of public importance;
 - (c) promote effective oversight of public expenditure;
 - (d) allow a person to access his or her own personal information.

Irrelevant factors

- (4) The following factors must not be taken into account in deciding whether access to the document would, on balance, be contrary to the public interest:
 - (a) access to the document could result in embarrassment to the Commonwealth Government, or cause a loss of confidence in the Commonwealth Government;
 - (aa) access to the document could result in embarrassment to the Government of Norfolk Island or cause a loss of confidence in the Government of Norfolk Island;
 - (b) access to the document could result in any person misinterpreting or misunderstanding the document;
 - (c) the author of the document was (or is) of high seniority in the agency to which the request for access to the document was made;
 - (d) access to the document could result in confusion or unnecessary debate.

Guidelines

- (5) In working out whether access to the document would, on balance, be contrary to the public interest, an agency or Minister must have regard to any guidelines issued by the Information Commissioner for the purposes of this subsection under section 93A.

Section 22 - Access to edited copies with exempt or irrelevant matter deleted

- (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.

...



FOI fact sheet 12

Freedom of information – Your review rights

April 2011

If you disagree with the decision of an Australian Government agency or minister 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 someone is to be granted access to information that is about you, if the agency has informed you that it will impose a charge for processing your request 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 the agency, and external review by the Australian Information Commissioner.

Internal review

If an agency makes an FOI decision that you disagree with, you can ask the agency 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 the agency extended the application time. You should contact the agency if you wish to seek an extension. The agency must make a review decision within 30 days. If it does not do so, its original decision is considered to be affirmed.

Internal review is not available if a minister or the chief officer of the agency made the decision personally.

Review by the Information Commissioner

The Information Commissioner is an independent office holder who can review the decisions of agencies and ministers under the FOI Act.

Is a review the same as a complaint?

No. The Information Commissioner also investigates complaints about agency actions under the FOI Act. However, if you are complaining that an agency decision is wrong, it will be treated as an application for a review. Your matter will be treated as a complaint when a review would not be practical

or would not address your concerns (for example, if you were not consulted about a document that contains your personal information before it was released). For more information see FOI fact sheet 13 – *Freedom of information: How to make a complaint*.

Do I have to go through the agency's internal review process first?

No. You may apply directly to the Information Commissioner. However, going through the agency's internal review process gives the agency 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. The Information Commissioner's review is free.

How do I apply?

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

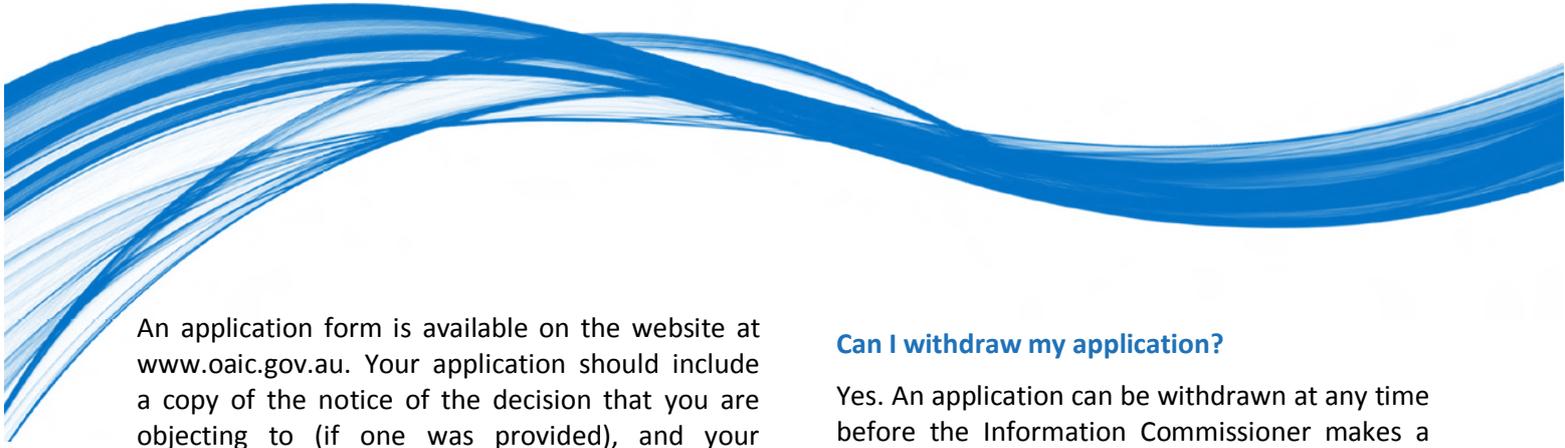
online: www.oaic.gov.au

post: GPO Box 2999, Canberra ACT 2601

fax: +61 2 9284 9666

email: enquiries@oaic.gov.au

in person: Level 3,
175 Pitt Street
Sydney NSW 2000



An application form is available on the website at 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.

Can I get help in completing the application?

Yes. The Information Commissioner's staff are available to help you with your application if anything is unclear.

When do I have to apply?

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 Information Commissioner 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.

You can ask the Information Commissioner for an extension of time to apply, and this may be granted if the Information Commissioner considers it is reasonable in the circumstances.

Who will conduct the review?

Staff of the Information Commissioner will conduct the review. Only the Information Commissioner, the FOI Commissioner or the Privacy Commissioner can make a decision at the end of the review.

Does the Information Commissioner have to review my matter?

No. The Information Commissioner may decide not to review an application that is frivolous, misconceived or lacking in substance, or if you fail to cooperate with the process or cannot be contacted after reasonable attempts. You cannot appeal against that decision.

Alternatively the Information Commissioner may decide that the Administrative Appeals Tribunal (AAT) would be better placed to review the matter, and if so, will advise you of the procedure for applying to the AAT. This will not be common.

Can I withdraw my application?

Yes. An application can be withdrawn at any time before the Information Commissioner makes a decision.

What happens in the review process?

The review process is designed to be as informal as possible. The Information Commissioner may contact you or any of the other parties to clarify matters and seek more information. The Information Commissioner may also ask the agency or minister to provide reasons for their decision if the reasons given were inadequate.

Most reviews will be made on the basis of the submissions and papers provided by the parties. Sometimes the Information Commissioner may decide to hold a hearing if one of the parties applies. Parties may participate in a hearing by telephone. If confidential matters are raised, the hearing may be held partly or wholly in private.

Will there be other parties to the review?

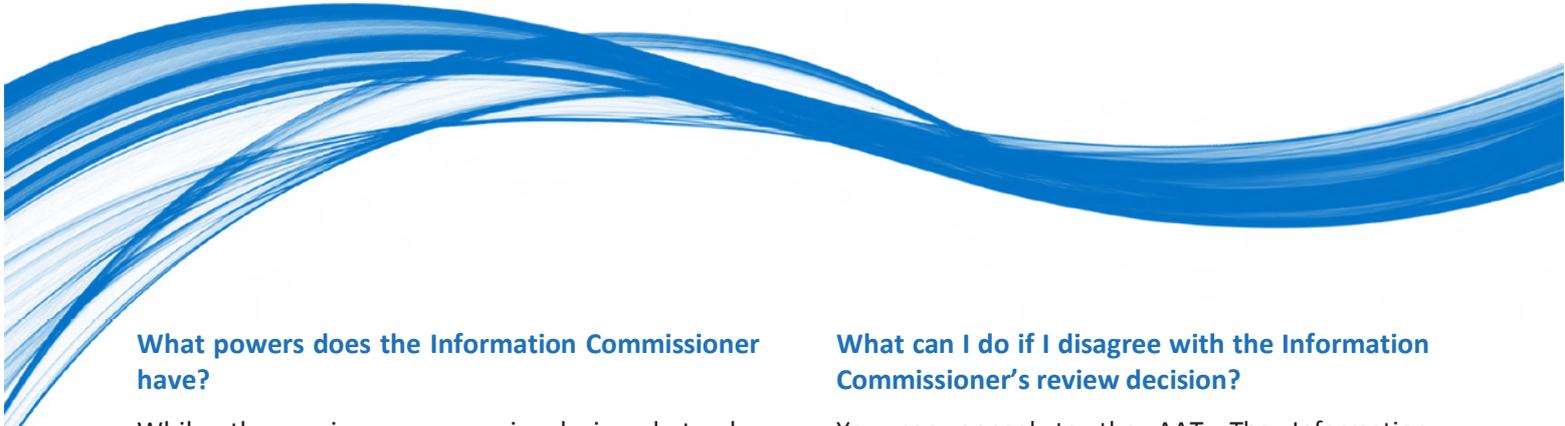
There may be. The Information Commissioner can join other parties who are affected by the application. For example, if you are objecting to someone else being granted access to information that concerns you, that person may be joined in the review.

Can someone else represent me?

Yes, including a lawyer. However, the Information Commissioner prefers the process to be as informal and cost-effective as possible and does not encourage legal representation.

Will the Information Commissioner look at all documents, including ones that are claimed to be exempt?

Yes. The Information Commissioner's review is a fresh decision, so all the relevant material must be examined, including documents that the agency or minister has declined to release. Developments that have occurred since the original decision may also be considered.



What powers does the Information Commissioner have?

While the review process is designed to be informal, the Information Commissioner has formal powers to require anyone to produce information or documents, to compel anyone to attend to answer questions and to take an oath or affirmation that their answers will be true.

An agency or minister can also be ordered to undertake further searches for documents.

What decisions can the Information Commissioner make?

After reviewing a decision, the Information Commissioner must do one of three things:

- set the decision aside and make a fresh decision
- affirm the decision, or
- vary the decision.

The Information Commissioner will give reasons for the decision.

Will the decision be made public?

Yes. The Information Commissioner will publish decisions on the website. Exempt material (that is, material that is not released) will not be included. Nor will the name of the review applicant, unless that person requests otherwise or there is a special reason to publish it.

What can I do if I disagree with the Information Commissioner's review decision?

You can appeal to the AAT. The Information Commissioner will not be a party to those proceedings. The fee for lodging an AAT application is \$777 (at November 2010), although there are exemptions for health care and pension concession card holders and the AAT can waive the fee on financial hardship grounds.

FOI applications made before 1 November 2010

The Information Commissioner can only review an agency's or minister's FOI decision if you made your FOI request on or after 1 November 2010. If you made your FOI request before 1 November, even if the decision was made after that date, the review process is different.

You must first ask the agency for internal review of the decision. You may then appeal to the AAT if you are not satisfied with the decision.

The information provided in this fact sheet is of a general nature. It is not a substitute for legal advice.

For further information

telephone: 1300 363 992

email: enquiries@oaic.gov.au

write: GPO Box 2999, Canberra ACT 2601
or visit our website at www.oaic.gov.au



FOI fact sheet 13

Freedom of information – How to make a complaint

October 2010

You may complain to the Australian Information Commissioner if you have concerns about how an Australian Government agency handled a request for documents under the *Freedom of Information Act 1982* (the FOI Act) or took any other action under that Act. If you are unhappy with the agency's decision about giving or refusing access to documents, you should ask for the decision to be reviewed, which is a separate process.

Disagree with an FOI decision?

If you disagree with an agency's or minister's decision on your request under the FOI Act, you have the right to have the decision reviewed. You can ask an agency to review its decision internally. You also have the right to ask the Information Commissioner to review an agency's or minister's decision. See **FOI Fact Sheet 12 Freedom of information – Your review rights** for more information about the review process.

If you are concerned about the way an agency has handled your matter, you can complain to the Information Commissioner.

What are the powers of the Information Commissioner?

The Information Commissioner can investigate a complaint about how an agency handled an FOI request, or other actions the agency took under the FOI Act. The Information Commissioner cannot investigate a complaint about a minister.

In conducting the investigation the Information Commissioner has the power to:

- make inquiries of an agency
- obtain information from any person
- take possession of, or inspect, any relevant documents.

If the Information Commissioner decides to investigate your complaint, the agency you have complained about will be notified in writing of the complaint. The Information Commissioner conducts investigations of complaints in private.

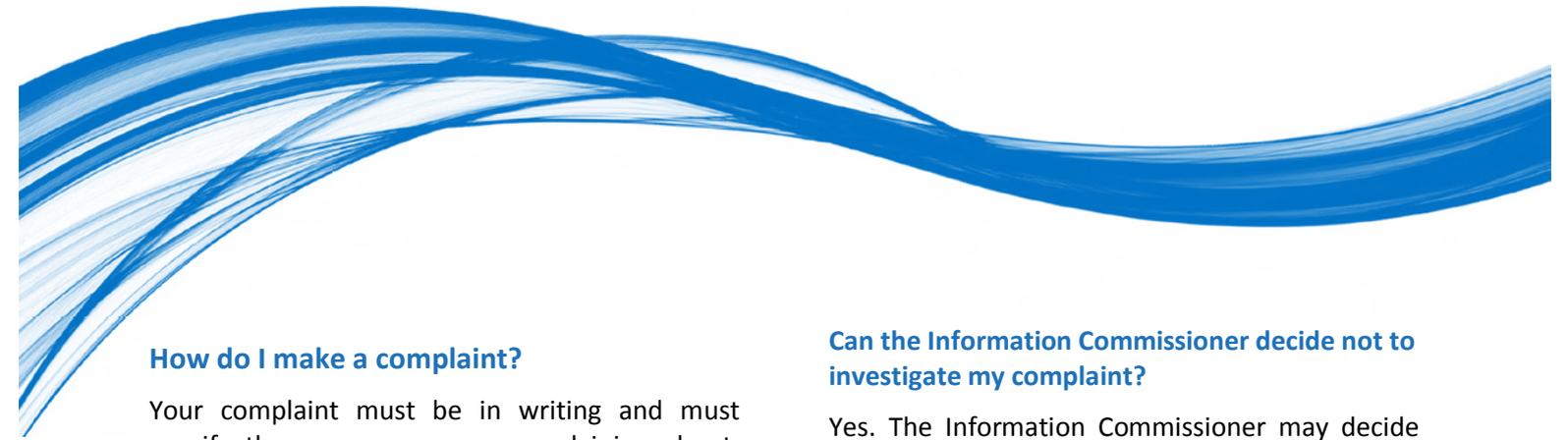
Who can make a complaint?

Any person can make a complaint about the actions of an agency in relation to an FOI activity. You do not need to have requested documents under the FOI Act.

When should I make a complaint?

You can complain to the Information Commissioner at any time. If your complaint relates to an FOI request you can make the complaint at any stage of the process.

Before making a complaint to the Information Commissioner, you should contact the agency directly to try to resolve your concerns. The Information Commissioner may decide not to investigate your complaint if you have not raised your concerns first with the agency or you have not given the agency a reasonable opportunity to deal with your complaint.



How do I make a complaint?

Your complaint must be in writing and must specify the agency you are complaining about. You can send your complaint to us using the details at the end of this fact sheet. A complaint form is also available on our website at www.oaic.gov.au.

If you need help we can assist you. You can contact us on 1300 363 992 or by email to enquiries@oaic.gov.au.

What information do I need to put in the complaint?

To help the Information Commissioner give the best consideration to your complaint, please provide as much relevant information as possible. Be clear about the issues in your complaint and what action or outcome you would like to see as a result.

Is there a fee for making a complaint?

No. There are no costs involved in making a complaint to the Information Commissioner.

What will happen to my complaint?

An officer of the Information Commissioner will contact you to discuss your complaint and you will be kept informed of the progress of your complaint along the way.

Before deciding whether to investigate your complaint the Information Commissioner may make preliminary inquiries of the agency you have complained about.

If the Information Commissioner decides to investigate your complaint, the Commissioner will write to the agency and request information to assist with the investigation.

Can the Information Commissioner decide not to investigate my complaint?

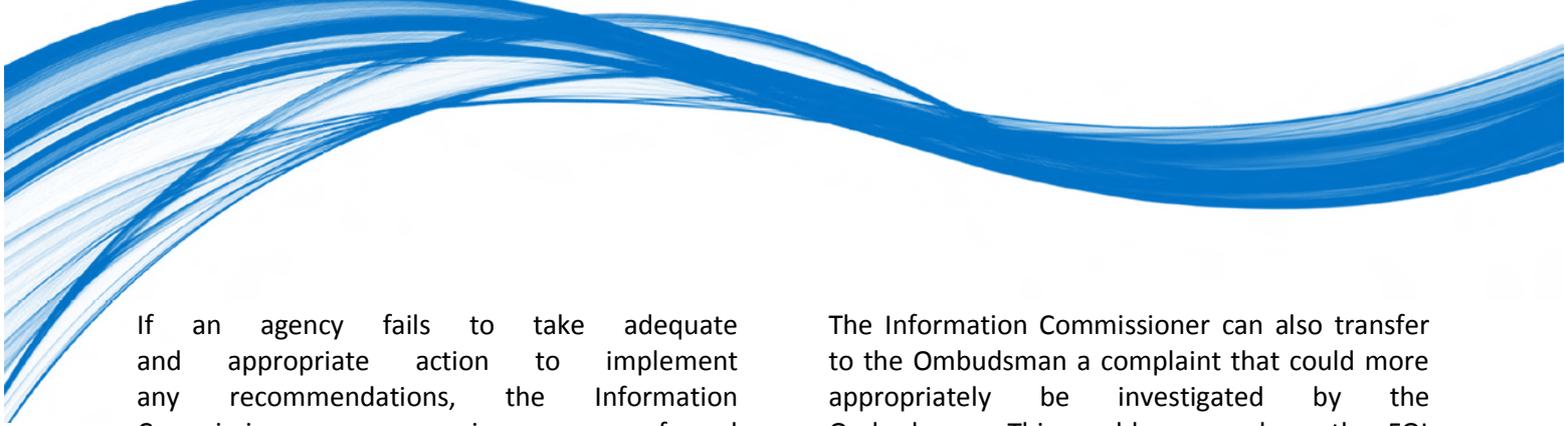
Yes. The Information Commissioner may decide not to investigate, or may discontinue an investigation, if:

- your complaint does not concern an agency's action under the FOI Act
- it is more appropriate for you to complain to another body (such as the agency or the Commonwealth Ombudsman)
- it is more appropriate for you to ask for the decision to be reviewed
- the agency you complained about has dealt with your complaint, or is in the process of dealing with it
- your complaint is frivolous, lacking in substance or not made in good faith
- you do not have sufficient interest in the matter.

If the Information Commissioner decides not to investigate or discontinues an investigation, the Commissioner will notify you and the agency of the reasons for this in writing.

How will my complaint be resolved?

In some cases the Information Commissioner's investigation and intervention may result in the agency addressing the issues that you have complained about. In other cases the Information Commissioner may make suggestions or recommendations that the agency should implement. You and the agency will be notified in writing of the outcome of the investigation.



If an agency fails to take adequate and appropriate action to implement any recommendations, the Information Commissioner may issue a formal implementation notice. This notice requires the agency to explain what action it will take to implement the recommendations. The Information Commissioner may also provide a written report to the minister responsible for the agency, and the report will be tabled in Parliament.

Your name will not be included in the report unless there is a special reason and you were first consulted.

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 Information Commissioner, the Ombudsman will consult the Information Commissioner to avoid the same matter being investigated twice. If the Ombudsman decides not to investigate, the complaint and all relevant documents must be transferred to the Information Commissioner.

The Information Commissioner can also transfer to the Ombudsman a complaint that could more appropriately be investigated by the Ombudsman. 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.

The information provided in this fact sheet is of a general nature. It is not a substitute for legal advice.

For further information

telephone: 1300 363 992

email: enquiries@oaic.gov.au

write: GPO Box 2999, Canberra ACT
2601

or visit our website at

www.oaic.gov.au