



12 September 2018



In reply please quote:

FOI Request: FA 18/07/00247

File Number: ADF2018/153002

Dear Sir/Madam

Freedom of Information (FOI) request - Access Decision

On 4 July 2018, the Department of Home Affairs (the Department) received a request for access to documents under the *Freedom of Information Act 1982* (the FOI Act).

The purpose of this letter is to provide you with a decision on your request for access under the FOI Act.

1 Scope of request

You have requested access to the following documents:

- *List of all current representatives (organisations and individuals) who sit on the Firearms Industry Reference Group (FIRG)*
- *A copy of Minutes for all meetings held by the Firearms Industry Reference Group (FIRG) for the years 2017 and 2018*
- *An itemised summary of all expenses allocated to facilitating the FIRG for the years, 2016, 2017 and 2018.*

2 Authority to make decision

I am an officer authorised under section 23 of the FOI Act to make decisions in respect of requests to access documents or to amend or annotate records.

3 Relevant material

In reaching my decision I referred to the following:

- the terms of your request
- the FOI Act
- Guidelines published by the Office of the Information Commissioner under section 93A of the FOI Act (the FOI Guidelines)
- advice from Departmental officers with responsibility for matters relating to the documents to which you sought access

4 Documents in scope of request

The Department has identified one existing document as falling within the scope of your request. This document was in the possession of the Department on 4 July 2018 when your request was received.

In addition, in accordance with section 17 of the FOI Act, the Department has used its computer system to produce two documents that contain information that falls within the scope of your request. The data produced in the documents existed in the possession of the Department on 4 July 2018 when your FOI request was received.

Attachment A is a schedule which describes the relevant documents and sets out my decision in relation to each of them.

5 Decision

The decision in relation to the documents in the possession of the Department which fall within the scope of your request is as follows:

- Release two documents in full
- Release one document in part with deletions

6 Reasons for Decision

Detailed reasons for my decision are set out below.

Where the schedule of documents indicates an exemption claim has been applied to a document or part of document, my findings of fact and reasons for deciding that the exemption provision applies to that information are set out below.

6.1 Section 22 of the FOI Act – irrelevant to request

Section 22 of the FOI Act provides that if giving access to a document would disclose information that would reasonably be regarded as irrelevant to the request, it is possible for the Department to prepare an edited copy of the document, modified by deletions, ensuring that the edited copy would not disclose any information that would reasonably be regarded as irrelevant to the request.

On 9 July 2018, the Department advised you that its policy is to exclude the personal details of officers not in the Senior Executive Service (SES), as well as the mobile and work telephone numbers of SES staff, contained in documents that fall within scope of an FOI request.

I have therefore decided that part of document 2 marked 's22(1)(a)(ii)' would disclose information that could reasonably be regarded as irrelevant to your request, and have therefore prepared an edited copy of the document, with the irrelevant material deleted pursuant to section 22(1)(a)(ii) of the FOI Act.

The remainder of the document has been considered for release to you as it is relevant to your request.

6.2 Section 47B(a) of the FOI Act – Commonwealth-State relations

Section 47B of the FOI Act provides that a document is conditionally exempt if disclosure:

- (a) would, or could reasonably be expected to, cause damage to relations between the Commonwealth and a State; or
- (b) Would divulge information or matter communication in confidence by or on behalf of the Government of a State or an authority of a State, to the Government of the Commonwealth, to an authority of the Commonwealth or to a person receiving the communication on behalf of the Commonwealth or of an authority of the Commonwealth.

The disclosure of part of document 2 would or could reasonably be expected to cause damage to relations between the Commonwealth and a State

I consider that disclosure of information and discussions between the Commonwealth and the states and territories would adversely affect the continued level of trust and cooperation and would impair or prejudice the flow of information. The release of any information would damage the working relationships between the Commonwealth and the states and territories.

I have decided that part of document 2 is conditionally exempt under section 47B(a) of the FOI Act.

Access to a conditionally exempt document must generally be given unless it would be contrary to the public interest to do so. I have turned my mind to whether disclosure of the information would be contrary to the public interest, and have included my reasoning in that regard at paragraph 6.3 below.

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

As I have decided that parts of the documents are conditionally exempt, I am now required to consider whether access to the conditionally exempt information 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 part of 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 conditionally exempt information in the document would promote the objects of the FOI Act.
- I consider the conditionally exempt information in the document is not sufficiently in the public interest to outweigh the provisional exemptions. The matter has a limited scope and, in my view, would be of interest to a narrow section of the public.
- I consider that no insights into public expenditure will be provided through examination of the conditionally exempt information in the document.
- I am satisfied that you do not require access to the conditionally exempt information in the document in order to access your own personal information.

Disclosure of the conditionally exempt information in the document would not provide a person with sufficient information to assess the rigour or efficiencies of internal decision making processes within the Department, 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 document:

- Disclosure of part of the document that is conditionally exempt under section **47B(a)** of the FOI Act could reasonably be expected to prejudice the Department's ability to obtain and discuss information with the states and territories in the future. Confidential consideration of issues is crucial given the aim for consistency in firearms policy across the Commonwealth, states and territories. 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.

7 Legislation

A copy of the FOI Act is available at <https://www.legislation.gov.au/Details/C2017C00251>. If you are unable to access the legislation through this website, please contact our office for a copy.

8 Your Review Rights

Internal Review

If you disagree with this decision, you have the right to apply for an internal review by the Department of this decision. Any request for internal review must be provided to the Department within 30 days of you being notified of the decision. Where possible please attach reasons why you believe a review of the decision is necessary. The internal review will be carried out by an officer other than the original decision maker and the Department must make a review decision within 30 days.

Applications for review should be sent to:

By email to: foi.reviews@homeaffairs.gov.au

OR

By mail to:
Freedom of Information Section
Department of Home Affairs
PO Box 25
BELCONNEN ACT 2617

Review by the Office of the Australian Information Commissioner

You may apply directly to the Office of the Australian Information Commissioner (OAIC) for a review of this decision. You must apply in writing within 60 days of this notice. For further information about review rights and how to submit a request for a review to the OAIC, please see Fact Sheet 12 "Freedom of information – Your review rights", available online at <http://www.oaic.gov.au/freedom-of-information/foi-reviews>.

9 Making a Complaint

You may complain to the Australian Information Commissioner about action taken by the Department in relation to your request.

Your enquiries to the Australian Information Commissioner can be directed to:

Phone 1300 363 992 (local call charge)

Email enquiries@oaic.gov.au

There is no particular form required to make a complaint to the Australian Information Commissioner. The request should be in writing and should set out the grounds on which it is considered that the action taken in relation to the request should be investigated and identify the Department of Home Affairs as the relevant agency.

10 Contacting the FOI Section

Should you wish to discuss this decision, please do not hesitate to contact the FOI Section at foi@homeaffairs.gov.au.



**Authorised Decision Maker
Department of Home Affairs**

ATTACHMENT A

SCHEDULE OF DOCUMENTS
REQUEST UNDER *FREEDOM OF INFORMATION ACT 1982*

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No.	Date of document	No. of pages	Description	Decision on release	
1.	-	1	List of current representatives on the Firearms Industry Reference Group (FIRG)	Release in full	
2.	29.03.2017	2	Firearms Industry Reference Group – Minutes	Release in part	s.22(1)(a)(ii) s.47B(a)
3.	-	1	Itemised summary of all expenses allocated to facilitating FIRG for the years 2016, 2017 and 2018	Release in full	