

**From:** s 22  
**To:** [contact@righttoknow.org.au](mailto:contact@righttoknow.org.au)  
**Cc:** [Freedom of Information](#)  
**Subject:** RE: New take down request [SEC=OFFICIAL]  
**Date:** Tuesday 5 January 2021 12:45:56 PM

Hi Ben

I'm free to discuss sometime. 6am telcon sounds a little rough for you. Would it work better if we aimed for 7am or 8am your time?

Cheers

s 22

**A/g Principal Legal Counsel**

Small Business, FOI and Privacy team  
 Legal, Audit and Assurance Branch

s 22

**Department of Industry, Science, Energy & Resources** | [www.industry.gov.au](http://www.industry.gov.au)

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**From:** Ben Fairless [<mailto:contact@righttoknow.org.au>]

**Sent:** Monday, 4 January 2021 10:36 PM

**To:** s 22

**Subject:** Re: New take down request [SEC=OFFICIAL]

Hi s 22

s 47F

s 22, would you be open to a phone call with me to discuss s 22 email and see what further we can do to assist? Or would you prefer I speak with someone at Minter Ellison?

As a volunteer I am generally unavailable during normal work hours, however I'm in Perth so I could jump on a call at 6am Perth Time (9am AEDT - Canberra time) if that worked for you. I just need a bit of notice so I can get enough sleep.

Kind Regards,

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OFFICIAL

-----Original Message-----

From: s 47F [<mailto:foi+request-6959-bc35a079@righttoknow.org.au>]

Sent: Monday, 7 December 2020 5:09 PM

To: Freedom of Information <[FOI@industry.gov.au](mailto:FOI@industry.gov.au)>

Subject: Freedom of Information request - Internal systems of control

Department of Industry, Science, Energy and Resources Legal Branch GPO Box 2013 Canberra ACT 2601

ATT FOI Coordinator

I am requesting access to information under the Freedom of Information Act.

BACKGROUND

s 47F received this response with respect to the Department's (non)compliance with finance legislation here-

<https://www.righttoknow.org.au/request/6697/response/18819/attach/4/67013%20FOI%20Answers.pdf>

The Department appropriates \$3.9 billion per annum yet it had not conducted a single divisional fraud risk-assessment for AusIndustry in over 37 months.

The branch responsible for this debacle is the Legal Audit and Assurance branch; also entrusted with managing Department FOI requests.

Notably, the Department held that it will not release documents with reports under section 17 without a ready-made 'database' as its staff struggles with having to use their "eyes and brains" in completing such tasks-

<https://www.righttoknow.org.au/request/6788/response/19331/attach/4/67287%20Combined%20documents%20AR.pdf> (pg. 28 para. 200).

Recently, the Department declined another report under section 17, claiming that it refuses access

to information under the act whilst its website states that to make an application "you must submit a request in writing stating that you're requesting information under the Act"-

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#### REQUEST

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A simple report with these numbers will suffice.

#### NOTICE

I hereby allege that the Legal Audit and Assurance branch of the Department is likely withholding access under the FOI Act to suppress its non-compliance with finance/fraud legislation. I will report further non-acceptance of this FOI request to the authorities under suspicion of abuse of public office. This is your final warning.

#### DELIVERY

via [righttoknow.org.au](http://righttoknow.org.au)

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Is [FOI@industry.gov.au](mailto:FOI@industry.gov.au) the wrong address for Freedom of Information requests to Department of Industry, Innovation and Science? If so, please contact us using this form:

[https://www.righttoknow.org.au/change\\_request/new?body=department\\_of\\_industry\\_innovation\\_and\\_science](https://www.righttoknow.org.au/change_request/new?body=department_of_industry_innovation_and_science)

This request has been made by an individual using Right to Know. This message and any reply that you make will be published on the internet. More information on how Right to Know works can be found at:

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If you find this service useful as an FOI officer, please ask your web manager to link to us from your organisation's FOI page.

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From: Ben Fairless  
 To: s 22  
 Cc: Freedom of Information  
 Subject: Re: New take down request [SEC=OFFICIAL]  
 Date: Tuesday 5 January 2021 03:39:29 PM

Hi s 22

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A/g Principal Legal Counsel | Small Business, FOI and Privacy | Legal, Audit and Assurance Branch

**s 22**

I do not work Wednesdays.

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OFFICIAL

-----Original Message-----

From: **s 47F** [<mailto:foi+request-6959-bc35a079@righttoknow.org.au>]

Sent: Monday, 7 December 2020 5:09 PM

To: Freedom of Information <[FOI@industry.gov.au](mailto:FOI@industry.gov.au)>

Subject: Freedom of Information request - Internal systems of control

Department of Industry, Science, Energy and Resources Legal Branch GPO Box 2013  
Canberra ACT 2601

ATT FOI Coordinator

I am requesting access to information under the Freedom of Information Act.

BACKGROUND

**s 47F** received this response with respect to the Department's (non)compliance with finance legislation here-

<https://www.righttoknow.org.au/request/6697/response/18819/attach/4/67013%20FOI%20Answers.pdf>

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via [righttoknow.org.au](mailto:righttoknow.org.au)

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-----  
OFFICIAL

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From: Ben Fairless  
 To: s 22  
 Cc: Freedom of Information  
 Subject: Re: New take down request [SEC=OFFICIAL]  
 Date: Tuesday 5 January 2021 06:22:17 PM

Hi s 22

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Thanks,  
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Ben Fairless  
[OpenAustralia Foundation](#)  
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Department of Industry, Science, Energy & Resources | [www.industry.gov.au](http://www.industry.gov.au)

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If so, we are prepared to remove:

- References to the Legal, Audit and Assurance Branch in the request
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Let me know if you have any questions or want to discuss further.

Kind Regards,

Ben

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[https://www.righttoknow.org.au/change\\_request/new?body=department\\_of\\_industry\\_innovation\\_and\\_science](https://www.righttoknow.org.au/change_request/new?body=department_of_industry_innovation_and_science)

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OFFICIAL

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**To:** "contact@righttoknow.org.au"  
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**Subject:** RE: New take down request [SEC=OFFICIAL]  
**Date:** Tuesday 5 January 2021 06:43:03 PM

Hi Ben

Can do 6.30am tomorrow – I'll send an invite now. Alternatively we can talk right now if you like.

Cheers

s 22

**A/g Principal Legal Counsel**

Small Business, FOI and Privacy team

Legal, Audit and Assurance Branch

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Department of Industry, Science, Energy & Resources | [www.industry.gov.au](http://www.industry.gov.au)

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[foi+request-6959-bc35a079@righttoknow.org.au](mailto:foi+request-6959-bc35a079@righttoknow.org.au)

Is [FOI@industry.gov.au](mailto:FOI@industry.gov.au) the wrong address for Freedom of Information requests to Department of Industry, Innovation and Science? If so, please contact us using this form:  
[https://www.righttoknow.org.au/change\\_request/new?body=department\\_of\\_industry\\_innovation\\_and\\_science](https://www.righttoknow.org.au/change_request/new?body=department_of_industry_innovation_and_science)

This request has been made by an individual using Right to Know. This message and any reply that you make will be published on the internet. More information on how Right to Know works can be found at:  
<https://www.righttoknow.org.au/help/officers>

If you find this service useful as an FOI officer, please ask your web manager to link to us from your organisation's FOI page.

-----  
OFFICIAL

OFFICIAL

OFFICIAL

OFFICIAL

**From:** Ben Fairless  
**To:** s 22  
**Cc:** Freedom of Information  
**Subject:** Re: New take down request [SEC=OFFICIAL]  
**Date:** Tuesday 5 January 2021 08:41:16 PM

Hi s 22

I've only just finished work I'm afraid. I've accepted your meeting request for tomorrow. That said, if you're a night owl like me give me a ring on s 47F, s 47G I'll be up for a few more hours.

Just a heads up (I say this to everyone who get's my mobile number) my mobile number is provided to the Department in confidence for the purposes of contacting me to discuss this specific request. It's wider release (as part of an FOI request or otherwise) would be, in my opinion, unreasonable. As a volunteer, I'm not always able to answer my phone during work hours, and it's easier for me to check our email account ([contact@righttoknow.org.au](mailto:contact@righttoknow.org.au)) then it is to take a call.

Kind Regards,  
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Ben Fairless  
[OpenAustralia Foundation](#)  
[openaustralia](#) | [planningalerts](#) | [electionleaflets](#) | [righttoknow](#) | [theyvoteforyou](#) | [morph](#)

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 Can do 6.30am tomorrow – I'll send an invite now. Alternatively we can talk right now if you like.

Cheers

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 Small Business, FOI and Privacy team  
 Legal, Audit and Assurance Branch  
 s 22

Department of Industry, Science, Energy & Resources | [www.industry.gov.au](http://www.industry.gov.au)  
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**Sent:** Tuesday, 5 January 2021 6:22 PM

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Including this sort of information is harming us greatly – for instance we are receiving high numbers of requests relating to fraud documents simply because unrelated third parties are seeing these claims that the department is non-compliant with fraud legislation and these third parties are then repeating the allegations in a number of forums and submitting their own requests for documents. The requests we are receiving are rising exponentially.

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In essence it's still our view that it's in the public interest that the ancillary material should be removed from this and all requests as it spreads misinformation, encourages abuse of the FOI process, and insults my staff and other departmental officials without any factual basis.

As the requests are escalating we have engaged Minter Ellison to manage them and will be briefing them this afternoon. I'll be asking Minter Ellison to continue monitoring the RTK website and engaging with you as

necessary.

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(copied in) will be taking the reins for the next month.

Thanks

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**Sent:** Friday, 11 December 2020 1:14 PM

**To:** s 22

**Subject:** Re: New take down request [SEC=OFFICIAL]

Hi s 22

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We are trying to balance keeping as much of the request up on the site as possible while still preventing potentially defamatory material and material that could cause individuals to be the subject of harassment. As I'm sure you can appreciate, it's a really fine line and a balancing act for us.

In this case, the part above the FOI request appears to mostly be raising concerns (albeit not in the most productive way) about the Department generally rather than specific individuals.

Could you confirm that s 47F is correct that the Legal, Audit and Assurance Branch processes all FOI requests for the Department?

If so, we are prepared to remove:

- References to the Legal, Audit and Assurance Branch in the request
- Everything contained under the heading NOTICE (after the FOI request).

Let me know if you have any questions or want to discuss further.

Kind Regards,

Ben

—

Ben Fairless

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Hi s 22

Just confirming receipt of your email. I'll be in touch when I've had the opportunity to review further.

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Ben

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Hi Ben

Could we please also request that you remove the ancillary information from the below request, with only the text under the heading "Request" remaining?

Thanks

s 22

A/g Principal Legal Counsel | Small Business, FOI and Privacy | Legal, Audit and Assurance Branch

s 22

I do not work Wednesdays.

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OFFICIAL

-----Original Message-----

From: s 47F [<mailto:foi+request-6959-bc35a079@righttoknow.org.au>]

Sent: Monday, 7 December 2020 5:09 PM

To: Freedom of Information <[FOI@industry.gov.au](mailto:FOI@industry.gov.au)>

Subject: Freedom of Information request - Internal systems of control

Department of Industry, Science, Energy and Resources Legal Branch GPO Box  
2013 Canberra ACT 2601

ATT FOI Coordinator

I am requesting access to information under the Freedom of Information Act.

#### BACKGROUND

s 47F received this response with respect to the Department's  
(non)compliance with finance legislation here-  
<https://www.righttoknow.org.au/request/6697/response/18819/attach/4/67013%20FOI%20Answers.pdf>

The Department appropriates \$3.9 billion per annum yet it had not conducted a  
single divisional fraud risk-assessment for AusIndustry in over 37 months.

The branch responsible for this debacle is the Legal Audit and Assurance branch;  
also entrusted with managing Department FOI requests.

Notably, the Department held that it will not release documents with reports  
under section 17 without a ready-made 'database' as its staff struggles with  
having to use their "eyes and brains" in completing such tasks-  
<https://www.righttoknow.org.au/request/6788/response/19331/attach/4/67287%20Combined%20documents%20AR.pdf>  
(pg. 28 para. 200).

Recently, the Department declined another report under section 17, claiming that  
it refuses access to information under the act whilst its website states that to  
make an application "you must submit a request in writing stating that you're  
requesting information under the Act"- [https://www.industry.gov.au/about-  
us/freedom-of-information](https://www.industry.gov.au/about-us/freedom-of-information)

#### REQUEST

I am requesting a document that contains a report with A-C as follows (for each  
Department Division from 1 January 2016 until 1 January 2020)- A. Number of  
completed fraud risk assessments as per s 6 and s 7.6 of the Fraud and  
Corruption Control Plan 2018-20 (FCCP).  
B. Number of completed fraud audits as per s 14.2 of the FCCP C. Number of  
completed fraud detection compliance reviews as per s 14.4 of the FCCP.

A simple report with these numbers will suffice.

#### NOTICE

I hereby allege that the Legal Audit and Assurance branch of the Department is  
likely withholding access under the FOI Act to suppress its non-compliance with  
finance/fraud legislation. I will report further non-acceptance of this FOI request  
to the authorities under suspicion of abuse of public office. This is your final  
warning.

#### DELIVERY

via [righttoknow.org.au](mailto:righttoknow.org.au)

s 47F

Please use this email address for all replies to this request:

[foi+request-6959-bc35a079@righttoknow.org.au](mailto:foi+request-6959-bc35a079@righttoknow.org.au)

Is [FOI@industry.gov.au](mailto:FOI@industry.gov.au) the wrong address for Freedom of Information requests  
to Department of Industry, Innovation and Science? If so, please contact us using  
this form:

[https://www.righttoknow.org.au/change\\_request/new?  
body=department\\_of\\_industry\\_innovation\\_and\\_science](https://www.righttoknow.org.au/change_request/new?body=department_of_industry_innovation_and_science)

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<https://www.righttoknow.org.au/help/officers>

If you find this service useful as an FOI officer, please ask your web manager to  
link to us from your organisation's FOI page.

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OFFICIAL

**From:** s 22  
**To:** "contact@righttoknow.org.au"  
**Cc:** Freedom of Information  
**Subject:** RE: New take down request [SEC=OFFICIAL:Sensitive, ACCESS=Personal-Privacy]  
**Date:** Tuesday 5 January 2021 09:45:57 PM

Hi Ben

The names of the RIFs are:

s 47F

If RTK could delete their personal information from requests on RTK, that would be much appreciated.

Please let me know if you need further information.

Regards

s 22

**A/g Principal Legal Counsel**

Small Business, FOI and Privacy team

Legal, Audit and Assurance Branch

s 22

**Department of Industry, Science, Energy & Resources** | [www.industry.gov.au](http://www.industry.gov.au)

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Hi s 22

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I'll be up for a few more hours.

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Legal, Audit and Assurance Branch

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Thanks  
s 22

A/g Principal Legal Counsel | Small Business, FOI and Privacy | Legal, Audit and Assurance Branch

s 22

I do not work Wednesdays.

This transmission may contain confidential or legally privileged information. If you are not the intended recipient, you are notified that any use or dissemination of this communication is strictly prohibited.

OFFICIAL

-----Original Message-----

From: s 47F [<mailto:foi+request-6959-bc35a079@righttoknow.org.au>]

Sent: Monday, 7 December 2020 5:09 PM

To: Freedom of Information <[FOI@industry.gov.au](mailto:FOI@industry.gov.au)>

Subject: Freedom of Information request - Internal systems of control

Department of Industry, Science, Energy and Resources Legal Branch GPO Box 2013 Canberra ACT 2601

ATT FOI Coordinator

I am requesting access to information under the Freedom of Information Act.

BACKGROUND

s 47F received this response with respect to the Department's (non)compliance with finance legislation here- <https://www.righttoknow.org.au/request/6697/response/18819/attach/4/67013%20FOI%20Answers.pdf>

The Department appropriates \$3.9 billion per annum yet it had not conducted a single divisional fraud risk-assessment for AusIndustry in over 37 months.

The branch responsible for this debacle is the Legal Audit and Assurance branch; also entrusted with managing Department FOI requests.

Notably, the Department held that it will not release documents with reports under section 17 without a ready-made 'database' as its staff struggles with having to use their "eyes and brains" in completing such tasks- <https://www.righttoknow.org.au/request/6788/response/19331/attach/4/67287%20Combined%20documents%20AR.pdf> (pg. 28 para. 200).

Recently, the Department declined another report under section 17, claiming that it refuses access to information under the act whilst its website states that to make an application "you must submit a request in writing stating that you're requesting information under the Act"- <https://www.industry.gov.au/about-us/freedom-of-information>

REQUEST

I am requesting a document that contains a report with A-C as follows (for each Department Division from 1 January 2016 until 1 January 2020)- A. Number of completed fraud risk assessments as per s 6 and s 7.6 of the Fraud and Corruption Control Plan 2018-20 (FCCP).

B. Number of completed fraud audits as per s 14.2 of the FCCP C. Number of completed fraud detection compliance reviews as per s 14.4 of the FCCP.

A simple report with these numbers will suffice.

NOTICE

I hereby allege that the Legal Audit and Assurance branch of the Department is likely withholding access under the FOI Act to suppress its non-compliance with finance/fraud legislation. I will report further non-acceptance of this FOI request

to the authorities under suspicion of abuse of public office. This is your final warning.

DELIVERY  
via [righttoknow.org.au](http://righttoknow.org.au)

s 47F

-----  
Please use this email address for all replies to this request:  
[foi+request-6959-bc35a079@righttoknow.org.au](mailto:foi+request-6959-bc35a079@righttoknow.org.au)

Is [FOI@industry.gov.au](mailto:FOI@industry.gov.au) the wrong address for Freedom of Information requests to Department of Industry, Innovation and Science? If so, please contact us using this form:  
[https://www.righttoknow.org.au/change\\_request/new?body=department\\_of\\_industry\\_innovation\\_and\\_science](https://www.righttoknow.org.au/change_request/new?body=department_of_industry_innovation_and_science)

This request has been made by an individual using Right to Know. This message and any reply that you make will be published on the internet. More information on how Right to Know works can be found at:  
<https://www.righttoknow.org.au/help/officers>

If you find this service useful as an FOI officer, please ask your web manager to link to us from your organisation's FOI page.

-----  
OFFICIAL

OFFICIAL

OFFICIAL

OFFICIAL

OFFICIAL: Sensitive  
Personal privacy

**From:** Ben Fairless  
**To:** s 22  
**Cc:** Freedom of Information  
**Subject:** Re: New take down request [SEC=OFFICIAL:Sensitive, ACCESS=Personal-Privacy]  
**Date:** Wednesday 6 January 2021 01:19:02 AM

Hi s 22

Thanks for taking the time to speak with me about the recent increase in requests made to the Department, specifically those in relation to Regional Incubator Facilitators and Fraud complaints.

To recap our conversation, I provided some context on Right to Know, my role, and the role of the OpenAustralia Foundation (the charity behind Right to Know). You also discussed the role that the Department intends Minter Ellison to play in the management of FOI requests. I reiterated the complex balancing act that the Department's situation presents for us.

We discussed our guidelines, and how we prefer educating people instead of rigidly implementing our guidelines. We discussed how most people don't know what "Freedom of Information" is and aren't involved in the process (like you and I). We do this to educate people so they can make better requests, which improves everyone's experience. It also provides the added benefit of transparency, which is one of our primary goals. We try to assume that everyone coming to the table is acting in good faith (in the non legal sense).

We discussed events that are occurring within the Department that aren't immediately apparent when you refer to the requests on Right to Know. These include phone calls to FOI officers in the Department from applicants who are using the Right to Know website, as well as requests they have made outside of Right to Know. You also mentioned the significant increase of requests in relation to this specific program, which the Department has previously attributed to Right to Know. We also discussed options for the Department to seek redress outside of Right to Know (for example, through the Information Commissioner).

I asked you what the Department would like us to do in relation to s 22 earlier email. You advised that, as a starting point, you would like the names of the below individuals redacted:

s 47F

You advised the above people are "Regional Incubator Facilitators" (RIFs). You advised they aren't employed by the Department, however provide services to the Department. You weren't able to clarify what these were without checking with the relevant line area (which I completely understand).

Given the repeated requests to the Department, and a clear pattern with respect to the content, I feel that it is appropriate for us to redact names you have asked for until I have had time to discuss the matter in more detail with the directors of the OpenAustralia Foundation. Please be aware that this redaction is not an admission of wrongdoing, but rather an attempt on our part to address the Department's concerns while we review the situation further and come to a decision.

The tools we have available to use for redaction are limited. They will only apply to requests made to the Department, will not redact most PDF documents, are case sensitive and incredibly specific. For example, the redaction for s 47F would not redact s 47F

While you haven't specifically asked for this, I will also be writing to the applicants making requests using Right to Know and remind them of their obligations under our guidelines.

In relation to any further redaction requests, we would need the Department to identify specifically what material it wants removed and for what reason. We would need the below information (at a minimum):

1. Link to the relevant request
2. Specific quote(s) that you would like removed
3. Reason for removal

I've linked to our Takedown policy [here](#). Please note that while it says that a request to remove a name must come from the individual's line manager, we will accept a request from either yourself or s 22 (or someone acting in the same or a more senior position). To help the Department review all the most recent requests, I've created an [Advanced Search link](#) and utf8= " rel="noopener noreferrer" target="\_blank" style="font-family: -apple-system, BlinkMacSystemFont, " Segoe UI?, HelveticaNeue?, Helvetica, Arial, sans-serif;?Apple="" color="" Emoji?;?Segoe UI Emoji?;?Segoe UI Symbol?;background-color:white;?="">Advanced Search link which shows all requests from 1 January 2019 to 31 December 2021 (to cover any future requests after this email).

I hope the above email answers your questions and goes some way to helping the Department. If you have any questions or wish to discuss the contents of the above email please don't hesitate to reply at any time.

Kind Regards,  
Ben

Ben Fairless  
[OpenAustralia Foundation](#)  
[openaustralia](#) | [planningalerts](#) | [electionleaflets](#) | [righttoknow](#) | [theyvoteforyou](#) | [morph](#)

In the last year, OpenAustralia Foundation has helped nearly two **million Australians** find the information they need to help create the change they need. Please consider donating by [clicking here](#).

On January 5, 2021, 6:46 PM GMT+8 s 22 wrote:

Hi Ben  
 The names of the RIFs are:

s 47F

If RTK could delete their personal information from requests on RTK, that would be much appreciated.  
 Please let me know if you need further information.

Regards

s 22

A/g Principal Legal Counsel  
 Small Business, FOI and Privacy team  
 Legal, Audit and Assurance Branch  
 s 22

Department of Industry, Science, Energy & Resources | [www.industry.gov.au](#)  
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**From:** Ben Fairless [<mailto:contact@righttoknow.org.au>]

**Sent:** Tuesday, 5 January 2021 8:41 PM

**To:** s 22

**Cc:** Freedom of Information <[FOI@industry.gov.au](mailto:FOI@industry.gov.au)>

**Subject:** Re: New take down request [SEC=OFFICIAL]

Hi s 22

I've only just finished work I'm afraid. I've accepted your meeting request for tomorrow. That said, if you're a night owl like me give me a ring on s 47F, s 47G . I'll be up for a few more hours.

Just a heads up (I say this to everyone who get's my mobile number) my mobile number is provided to the Department in confidence for the purposes of contacting me to discuss this specific request. It's wider release (as part of an FOI request or otherwise) would be, in my opinion, unreasonable. As a volunteer, I'm not always able to answer my phone during work hours, and it's easier for me to check our email account ([contact@righttoknow.org.au](mailto:contact@righttoknow.org.au)) then it is to take a call.

Kind Regards,  
Ben

—  
Ben Fairless

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On January 5, 2021, 3:43 PM GMT+8 **s 22**

wrote:

Hi Ben

Can do 6.30am tomorrow – I'll send an invite now. Alternatively we can talk right now if you like.

Cheers

**s 22**

**A/g Principal Legal Counsel**

Small Business, FOI and Privacy team

Legal, Audit and Assurance Branch

**s 22**

**Department of Industry, Science, Energy & Resources** | [www.industry.gov.au](http://www.industry.gov.au)

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**From:** Ben Fairless [<mailto:contact@righttoknow.org.au>]

**Sent:** Tuesday, 5 January 2021 6:22 PM

**To:** **s 22**

**Cc:** Freedom of Information <[FOI@industry.gov.au](mailto:FOI@industry.gov.au)>

**Subject:** Re: New take down request [SEC=OFFICIAL]

Hi **s 22**

Can we do 6:30 am tomorrow? If I don't hear back from you tonight then 6:30 am on Thursday?

Thanks,  
Ben

—  
Ben Fairless

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On January 5, 2021, 12:41 PM GMT+8 **s 22**

wrote:

Hi Ben

No worries – let's stay with 6am if that works for you. Would tomorrow work?

Cheers

**s 22**

**A/g Principal Legal Counsel**

Small Business, FOI and Privacy team

Legal, Audit and Assurance Branch

**s 22**

**Department of Industry, Science, Energy & Resources** | [www.industry.gov.au](http://www.industry.gov.au)

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**From:** Ben Fairless [<mailto:contact@righttoknow.org.au>]

**Sent:** Tuesday, 5 January 2021 3:39 PM

**To:** **s 22**

**Cc:** Freedom of Information <[FOI@industry.gov.au](mailto:FOI@industry.gov.au)>

**Subject:** Re: New take down request [SEC=OFFICIAL]

Hi **s 22**

It would need to be 6:30 am at the latest for me - Don't forget, I work a full time job in addition to volunteering with Right to Know.

Cheers,

Ben

—

Ben Fairless

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On January 5, 2021, 9:46 AM GMT+8 **s 22**

wrote:

Hi Ben

I'm free to discuss sometime. 6am telcon sounds a little rough for you. Would it work better if we aimed for 7am or 8am your time?

Cheers

s 22

A/g Principal Legal Counsel

Small Business, FOI and Privacy team

Legal, Audit and Assurance Branch

s 22

---

Department of Industry, Science, Energy & Resources | [www.industry.gov.au](http://www.industry.gov.au)

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**From:** Ben Fairless [<mailto:contact@righttoknow.org.au>]

**Sent:** Monday, 4 January 2021 10:36 PM

**To:** s 22

**Subject:** Re: New take down request [SEC=OFFICIAL]

Hi s 22,

s 47F

s 22 would you be open to a phone call with me to discuss s 22 email and see what further we can do to assist? Or would you prefer I speak with someone at Minter Ellison?

As a volunteer I am generally unavailable during normal work hours, however I'm in Perth so I could jump on a call at 6am Perth Time (9am AEDT - Canberra time) if that worked for you. I just need a bit of notice so I can get enough sleep.

Kind Regards,

Ben

—

Ben Fairless

[OpenAustralia Foundation](http://OpenAustraliaFoundation.org.au)

[openaustralia](http://openaustralia.org.au) | [planningalerts](http://planningalerts.org.au) | [electionleaflets](http://electionleaflets.org.au) | [righttoknow](http://righttoknow.org.au) | [theyvoteforyou](http://theyvoteforyou.org.au) | [morph](http://morph.org.au)

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On December 21, 2020, 7:59 AM GMT+8 s 22

wrote:

Hi Ben

Sorry in turn also for the delay in getting back to you.

Thanks for the explanation of your balancing act. In response to your question, yes, the FOI team within the Legal, Audit and Assurance Branch processes all FOI requests for the Department. However, your response appears to be saying that the position you've reached is that you'll only remove ancillary material where it is potentially defamatory or may subject individuals to harassment.

In this case you say that the ancillary material is ok because it raises concerns about the Department generally rather than specific individuals. Our view is that the material still squarely falls within the category of material which RTK ask applicants not to include on its website – that is material which includes arguments about the applicant's cause and statements that could insult others.

Including this sort of information is harming us greatly – for instance we are receiving high numbers of requests relating to fraud documents simply because unrelated third parties are seeing these claims that the department is non-compliant with fraud legislation and these third parties are then repeating the allegations in a number of forums and submitting their own requests for documents. The requests we are receiving are rising exponentially.

Although I know you don't engage in the content of the requests, to illustrate our point, documents produced by the department which are available on RTK show clearly that the department conducts fraud risk assessments in two-yearly cycles and that one fraud risk assessment was performed at the beginning of the first cycle and the next fraud risk assessment was performed at the end of the next cycle. This is why the fraud risk assessments were conducted 37 months apart and is consistent with the department's fraud plan. However, we have now received numerous requests for fraud documents.

Similarly, the applicants have a misunderstanding of the operation of s17 of the FOI Act and repeatedly request the department to provide information or to create documents for them (like this request does). I assume you're aware that this is an incorrect understanding of how the FOI Act operates and it's also contrary to guidance RTK provides under the heading "Why do I have to ask for specific existing documents". Applicants' claims about the department's interpretation of s17 of the Act are spreading misinformation about how the Act operates and also insulting my staff by continual references to their failure to use their 'eyes and brains'. I have had several staff members in tears over the continual harassment they are receiving through these RTK requests.

In essence it's still our view that it's in the public interest that the ancillary material should be removed from this and all requests as it spreads misinformation, encourages abuse of the FOI process, and insults my staff and other departmental officials without any factual basis.

As the requests are escalating we have engaged Minter Ellison to manage them and will be briefing them this afternoon. I'll be asking Minter Ellison to continue monitoring the RTK website and engaging with you as necessary.

s 47F (copied in) will be taking the reins for the next month.

Thanks

s 22

**From:** Ben Fairless [<mailto:contact@righttoknow.org.au>]

**Sent:** Friday, 11 December 2020 1:14 PM

**To:** s 22

**Subject:** Re: New take down request [SEC=OFFICIAL]

Hi s 22

Sorry for the delay. I've been waiting on a catch up with the Directors of OpenAustralia Foundation (the charity behind Right to Know) as we work to refine our policies.

We are trying to balance keeping as much of the request up on the site as possible while still preventing potentially defamatory material and material that could cause individuals to be the subject of harassment. As I'm sure you can appreciate, it's a really fine line and a balancing act for us.

In this case, the part above the FOI request appears to mostly be raising concerns (albeit not in the most productive way) about the Department generally rather than specific individuals.

Could you confirm that s 47F is correct that the Legal, Audit and Assurance Branch processes all FOI requests for the Department?

If so, we are prepared to remove:

- References to the Legal, Audit and Assurance Branch in the request
- Everything contained under the heading NOTICE (after the FOI request).

Let me know if you have any questions or want to discuss further.

Kind Regards,

Ben

—

Ben Fairless

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On December 8, 2020, 9:24 AM GMT+8 [contact@righttoknow.org.au](mailto:contact@righttoknow.org.au) wrote:

Hi s 22

Just confirming receipt of your email. I'll be in touch when I've had the opportunity to review further.

Thanks,

Ben

—

Ben Fairless

[OpenAustralia Foundation](#)

[openaustralia](#) | [planningalerts](#) | [electionleaflets](#) | [righttoknow](#) | [theyvoteforyou](#) | [morph](#)

On December 8, 2020, 5:27 AM GMT+8 s 22 wrote:

Hi Ben

Could we please also request that you remove the ancillary information from the below request, with only the text under the heading "Request" remaining?

Thanks

s 22

A/g Principal Legal Counsel | Small Business, FOI and Privacy | Legal, Audit and Assurance Branch

s 22

I do not work Wednesdays.

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OFFICIAL

-----Original Message-----

**From:** s 47F [<mailto:foi+request-6959-bc35a079@righttoknow.org.au>]

**Sent:** Monday, 7 December 2020 5:09 PM

**To:** Freedom of Information <[FOI@industry.gov.au](mailto:FOI@industry.gov.au)>

**Subject:** Freedom of Information request - Internal systems of control

Department of Industry, Science, Energy and Resources Legal Branch  
GPO Box 2013 Canberra ACT 2601

ATT FOI Coordinator

I am requesting access to information under the Freedom of Information Act.

#### BACKGROUND

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The Department appropriates \$3.9 billion per annum yet it had not conducted a single divisional fraud risk-assessment for AusIndustry in over 37 months.

The branch responsible for this debacle is the Legal Audit and Assurance branch; also entrusted with managing Department FOI requests.

Notably, the Department held that it will not release documents with reports under section 17 without a ready-made 'database' as its staff struggles with having to use their "eyes and brains" in completing such tasks-  
<https://www.righttoknow.org.au/request/6788/response/19331/attach/4/67287%20Combined%20documents%20AR.pdf>  
(pg. 28 para. 200).

Recently, the Department declined another report under section 17, claiming that it refuses access to information under the act whilst its website states that to make an application "you must submit a request in writing stating that you're requesting information under the Act"-  
<https://www.industry.gov.au/about-us/freedom-of-information>

#### REQUEST

I am requesting a document that contains a report with A-C as follows (for each Department Division from 1 January 2016 until 1 January 2020)- A. Number of completed fraud risk assessments as per s 6 and s 7.6 of the Fraud and Corruption Control Plan 2018-20 (FCCP). B. Number of completed fraud audits as per s 14.2 of the FCCP C. Number of completed fraud detection compliance reviews as per s 14.4 of the FCCP.

A simple report with these numbers will suffice.

#### NOTICE

I hereby allege that the Legal Audit and Assurance branch of the Department is likely withholding access under the FOI Act to suppress its non-compliance with finance/fraud legislation. I will report further non-acceptance of this FOI request to the authorities under suspicion of abuse of public office. This is your final warning.

#### DELIVERY

via [righttoknow.org.au](https://www.righttoknow.org.au)

s 47F

-----  
Please use this email address for all replies to this request:  
[foi+request-6959-bc35a079@righttoknow.org.au](mailto:foi+request-6959-bc35a079@righttoknow.org.au)

Is [FOI@industry.gov.au](mailto:FOI@industry.gov.au) the wrong address for Freedom of Information requests to Department of Industry, Innovation and Science? If so, please contact us using this form:  
[https://www.righttoknow.org.au/change\\_request/new?body=department\\_of\\_industry\\_innovation\\_and\\_science](https://www.righttoknow.org.au/change_request/new?body=department_of_industry_innovation_and_science)

This request has been made by an individual using Right to Know. This message and any reply that you make will be published on the internet. More information on how Right to Know works can be found at:  
<https://www.righttoknow.org.au/help/officers>

If you find this service useful as an FOI officer, please ask your web manager to link to us from your organisation's FOI page.

-----  
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OFFICIAL: Sensitive  
Personal privacy



**From:** s 22  
**To:** [contact@righttoknow.org.au](mailto:contact@righttoknow.org.au)  
**Cc:** [Freedom of Information](#)  
**Subject:** RE: New take down request [SEC=OFFICIAL:Sensitive, ACCESS=Personal-Privacy]  
**Date:** Wednesday 6 January 2021 09:10:05 AM

Hi Ben

Much thanks for the response. We're happy with the approach proposed and will seek to draw RTKs attention to any other specific requests that we have issue with.

Regards

s 22

**A/g Principal Legal Counsel**  
 Small Business, FOI and Privacy team  
 Legal, Audit and Assurance Branch

s 22

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**From:** Ben Fairless [mailto:contact@righttoknow.org.au]

**Sent:** Wednesday, 6 January 2021 1:19 AM

**To:** s 22

**Cc:** Freedom of Information

**Subject:** Re: New take down request [SEC=OFFICIAL:Sensitive, ACCESS=Personal-Privacy]

Hi s 22

Thanks for taking the time to speak with me about the recent increase in requests made to the Department, specifically those in relation to Regional Incubator Facilitators and Fraud complaints.

To recap our conversation, I provided some context on Right to Know, my role, and the role of the OpenAustralia Foundation (the charity behind Right to Know). You also discussed the role that the Department intends Minter Ellison to play in the management of FOI requests. I reiterated the complex balancing act that the Department's situation presents for us.

We discussed our guidelines, and how we prefer educating people instead of rigidly implementing our guidelines. We discussed how most people don't know what "Freedom of Information" is and aren't involved in the process (like you and I). We do this to educate people so they can make better requests, which improves everyone's experience. It also provides the added benefit of transparency, which is one of our primary goals. We try to assume that everyone coming to the table is acting in good faith (in the non legal sense).

We discussed events that are occurring within the Department that aren't immediately apparent when you refer to the requests on Right to Know. These include phone calls to FOI officers in the Department from applicants who are using the Right to Know website, as well as requests they have made outside of Right to Know. You also mentioned the significant increase of requests in relation to this specific program, which the Department has previously attributed to Right to Know. We also discussed options for the Department to seek redress outside of Right to Know (for example, through the Information Commissioner).

I asked you what the Department would like us to do in relation to s 22 earlier email. You advised that, as a starting point, you would like the names of the below individuals redacted:

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In relation to any further redaction requests, we would need the Department to identify specifically what material it wants removed and for what reason. We would need the below information (at a minimum):

1. Link to the relevant request
2. Specific quote(s) that you would like removed
3. Reason for removal

I've linked to our Takedown policy [here](#). Please note that while it says that a request to remove a name must come from the individual's line manager, we will accept a request from either yourself or s 22 (or someone acting in the same or a more senior position). To help the Department review all the most recent requests, I've created an [Advanced Search link](#) which shows all requests from 1 January 2019 to 31 December 2021 (to cover any future requests after this email).

I hope the above email answers your questions and goes some way to helping the Department. If you have any questions or wish to discuss the contents of the above email please don't hesitate to reply at any time.

Kind Regards,

Ben

—  
 Ben Fairless

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On January 5, 2021, 6:46 PM GMT+8 s 22

wrote:

Hi Ben

The names of the RIFs are:

s 47F

If RTK could delete their personal information from requests on RTK, that would be much appreciated.

Please let me know if you need further information.

Regards

s 22

**A/g Principal Legal Counsel**  
 Small Business, FOI and Privacy team

Legal, Audit and Assurance Branch

s 22

Department of Industry, Science, Energy & Resources | [www.industry.gov.au](http://www.industry.gov.au)

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**From:** Ben Fairless [<mailto:contact@righttoknow.org.au>]

**Sent:** Tuesday, 5 January 2021 8:41 PM

**To:** s 22

**Cc:** Freedom of Information <[FOI@industry.gov.au](mailto:FOI@industry.gov.au)>

**Subject:** Re: New take down request [SEC=OFFICIAL]

Hi s 22

I've only just finished work I'm afraid. I've accepted your meeting request for tomorrow. That said, if you're a night owl like me give me a ring on s 47F, s 47G. I'll be up for a few more hours.

Just a heads up (I say this to everyone who get's my mobile number) my mobile number is provided to the Department in confidence for the purposes of contacting me to discuss this specific request. It's wider release (as part of an FOI request or otherwise) would be, in my opinion, unreasonable. As a volunteer, I'm not always able to answer my phone during work hours, and it's easier for me to check our email account ([contact@righttoknow.org.au](mailto:contact@righttoknow.org.au)) then it is to take a call.

Kind Regards,

Ben

—  
Ben Fairless

[OpenAustralia Foundation](http://OpenAustraliaFoundation.org.au)

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On January 5, 2021, 3:43 PM GMT+8 s 22 wrote:

Hi Ben

Can do 6.30am tomorrow – I'll send an invite now. Alternatively we can talk right now if you like.

Cheers

s 22

A/g Principal Legal Counsel

Small Business, FOI and Privacy team

Legal, Audit and Assurance Branch

s 22

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**From:** Ben Fairless [<mailto:contact@righttoknow.org.au>]

**Sent:** Tuesday, 5 January 2021 6:22 PM

**To:** s 22

**Cc:** Freedom of Information <[FOI@industry.gov.au](mailto:FOI@industry.gov.au)>

**Subject:** Re: New take down request [SEC=OFFICIAL]

Hi s 22

Can we do 6:30 am tomorrow? If I don't hear back from you tonight then 6:30 am on Thursday?

Thanks,

Ben

—

Ben Fairless

[OpenAustralia Foundation](http://OpenAustraliaFoundation.org.au)

[openaustralia](http://openaustralia.org.au) | [planningalerts](http://planningalerts.org.au) | [electionleaflets](http://electionleaflets.org.au) | [righttoknow](http://righttoknow.org.au) | [theyvoteforyou](http://theyvoteforyou.org.au) | [morph](http://morph.org.au)

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On January 5, 2021, 12:41 PM GMT+8 s 22 wrote:

Hi Ben

No worries – let's stay with 6am if that works for you. Would tomorrow work?

Cheers

s 22

A/g Principal Legal Counsel

Small Business, FOI and Privacy team

Legal, Audit and Assurance Branch

s 22

---

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**From:** Ben Fairless [<mailto:contact@righttoknow.org.au>]

**Sent:** Tuesday, 5 January 2021 3:39 PM

**To:** s 22

**Cc:** Freedom of Information <[FOI@industry.gov.au](mailto:FOI@industry.gov.au)>

**Subject:** Re: New take down request [SEC=OFFICIAL]

Hi s 22

It would need to be 6:30 am at the latest for me - Don't forget, I work a full time job in addition to volunteering with Right to Know.

Cheers,

Ben

—

Ben Fairless

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On January 5, 2021, 9:46 AM GMT+8 s 22

wrote:

Hi Ben

I'm free to discuss sometime. 6am telcon sounds a little rough for you. Would it work better if we aimed for 7am or 8am your time?

Cheers

s 22

**A/g Principal Legal Counsel**

Small Business, FOI and Privacy team

Legal, Audit and Assurance Branch

s 22

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Department of Industry, Science, Energy & Resources | [www.industry.gov.au](http://www.industry.gov.au)

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**From:** Ben Fairless [<mailto:contact@righttoknow.org.au>]

**Sent:** Monday, 4 January 2021 10:36 PM

**To:** s 22

**Subject:** Re: New take down request [SEC=OFFICIAL]

Hi s 22

s 47F

s 22 would you be open to a phone call with me to discuss s 22 email and see what further we can do to assist? Or would you prefer I speak with someone at Minter Ellison?

As a volunteer I am generally unavailable during normal work hours, however I'm in Perth so I could jump on a call at 6am Perth Time (9am AEDT - Canberra time) if that worked for you. I just need a bit of notice so I can get enough sleep.

Kind Regards,

Ben

—

Ben Fairless

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On December 21, 2020, 7:59 AM GMT+8 s 22

wrote:

Hi Ben

Sorry in turn also for the delay in getting back to you.

Thanks for the explanation of your balancing act. In response to your question, yes, the FOI team within the Legal, Audit and Assurance Branch processes all FOI requests for the Department. However, your response appears to be saying that the position you've reached is that you'll only remove ancillary material where it is potentially defamatory or may subject individuals to harassment.

In this case you say that the ancillary material is ok because it raises concerns about the Department generally rather than specific individuals. Our view is that the material still squarely falls within the category of material which RTK ask applicants not to include on its website – that is material which includes arguments about the applicant's cause and statements that could insult others.

Including this sort of information is harming us greatly – for instance we are receiving high numbers of requests relating to fraud documents simply because unrelated third parties are seeing these claims that the department is non-compliant with fraud legislation and these third parties are then repeating the allegations in a number of forums and submitting their own requests for documents. The requests we are receiving are rising exponentially.

Although I know you don't engage in the content of the requests, to illustrate our point, documents produced by the department which are available on RTK show clearly that the department conducts fraud risk assessments in two-yearly cycles and that one fraud risk assessment was performed at the beginning of the first cycle and the next fraud risk assessment was performed at the end of the next cycle. This is why the fraud risk assessments were conducted 37 months apart and is consistent with the department's fraud plan. However, we have now received numerous requests for fraud documents.

Similarly, the applicants have a misunderstanding of the operation of s17 of the FOI Act and repeatedly request the department to provide information or to create documents for them (like this request does). I assume you're aware that this is an incorrect understanding of how the FOI Act operates and it's also contrary to guidance RTK provides under the heading "Why do I have to ask for specific existing documents". Applicants' claims about the department's interpretation of s17 of the Act are spreading misinformation about how the Act operates and also insulting my staff by continual references to their failure to use their 'eyes and brains'. I have had several staff members in tears over the continual harassment they are receiving through these RTK requests.

In essence it's still our view that it's in the public interest that the ancillary material should be removed from this and all requests as it spreads misinformation, encourages abuse of the FOI process, and insults my staff and other departmental officials without any factual basis.

As the requests are escalating we have engaged Minter Ellison to manage them and will be briefing them this afternoon. I'll be asking Minter Ellison to continue monitoring the RTK website and engaging with you as necessary.

s 47F, s 22

(copied in) will be taking the reins for the next month.

Thanks

s 22

**From:** Ben Fairless [<mailto:contact@righttoknow.org.au>]

**Sent:** Friday, 11 December 2020 1:14 PM

**To:** s 22

**Subject:** Re: New take down request [SEC=OFFICIAL]

Hi s 22

Sorry for the delay. I've been waiting on a catch up with the Directors of OpenAustralia Foundation (the charity behind Right to Know) as we work to refine our policies.

We are trying to balance keeping as much of the request up on the site as possible while still preventing potentially defamatory material and material that could cause individuals to be the subject of harassment. As I'm sure you can appreciate, it's a really fine line and a balancing act for us.

In this case, the part above the FOI request appears to mostly be raising concerns (albeit not in the most productive way) about the Department generally rather than specific individuals.

Could you confirm that s 47F is correct that the Legal, Audit and Assurance Branch processes all FOI requests for the Department?

If so, we are prepared to remove:

- References to the Legal, Audit and Assurance Branch in the request
- Everything contained under the heading NOTICE (after the FOI request).

Let me know if you have any questions or want to discuss further.

Kind Regards,

Ben

—

Ben Fairless

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On December 8, 2020, 9:24 AM GMT+8 [contact@righttoknow.org.au](mailto:contact@righttoknow.org.au) wrote:

Hi s 22

Just confirming receipt of your email. I'll be in touch when I've had the opportunity to

review further.

Thanks,

Ben

—

Ben Fairless

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On December 8, 2020, 5:27 AM GMT+8 **s 22**

wrote:

Hi Ben

Could we please also request that you remove the ancillary information from the below request, with only the text under the heading "Request" remaining?

Thanks

**s 22**

A/g Principal Legal Counsel | Small Business, FOI and Privacy | Legal, Audit and Assurance Branch

**s 22**

I do not work Wednesdays.

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-----Original Message-----

From: **s 47F** [<mailto:foi+request-6959-bc35a079@righttoknow.org.au>]

Sent: Monday, 7 December 2020 5:09 PM

To: Freedom of Information <[FOI@industry.gov.au](mailto:FOI@industry.gov.au)>

Subject: Freedom of Information request - Internal systems of control

Department of Industry, Science, Energy and Resources Legal Branch  
GPO Box 2013 Canberra ACT 2601

ATT FOI Coordinator

I am requesting access to information under the Freedom of Information Act.

BACKGROUND

**s 47F** received this response with respect to the Department's (non)compliance with finance legislation here-  
<https://www.righttoknow.org.au/request/6697/response/18819/attach/4/67013%20FOI%20Answers.pdf>

The Department appropriates \$3.9 billion per annum yet it had not conducted a single divisional fraud risk-assessment for AusIndustry in over 37 months.

The branch responsible for this debacle is the Legal Audit and Assurance branch; also entrusted with managing Department FOI requests.

Notably, the Department held that it will not release documents with reports under section 17 without a ready-made 'database' as its staff struggles with having to use their "eyes and brains" in completing such tasks-  
<https://www.righttoknow.org.au/request/6788/response/19331/attach/4/67287%20Combined%20documents%20AR.pdf>  
(pg. 28 para. 200).

Recently, the Department declined another report under section 17, claiming that it refuses access to information under the act whilst its website states that to make an application "you must submit a request in writing stating that you're requesting information under the Act"-  
<https://www.industry.gov.au/about-us/freedom-of-information>

REQUEST

I am requesting a document that contains a report with A-C as follows (for each Department Division from 1 January 2016 until 1 January 2020)- A. Number of completed fraud risk assessments as per s 6 and s 7.6 of the Fraud and Corruption Control Plan 2018-20 (FCCP). B. Number of completed fraud audits as per s 14.2 of the FCCP C. Number of completed fraud detection compliance reviews as per s 14.4 of the FCCP.

A simple report with these numbers will suffice.

NOTICE

I hereby allege that the Legal Audit and Assurance branch of the Department is likely withholding access under the FOI Act to suppress its non-compliance with finance/fraud legislation. I will report further non-acceptance of this FOI request to the authorities under suspicion of abuse of public office. This is your final warning.

DELIVERY

via [righttoknow.org.au](https://www.righttoknow.org.au)

s 47F

-----  
Please use this email address for all replies to this request:  
[foi+request-6959-bc35a079@righttoknow.org.au](mailto:foi+request-6959-bc35a079@righttoknow.org.au)

Is [FOI@industry.gov.au](mailto:FOI@industry.gov.au) the wrong address for Freedom of Information requests to Department of Industry, Innovation and Science? If so, please contact us using this form:  
[https://www.righttoknow.org.au/change\\_request/new?body=department\\_of\\_industry\\_innovation\\_and\\_science](https://www.righttoknow.org.au/change_request/new?body=department_of_industry_innovation_and_science)

This request has been made by an individual using Right to Know. This message and any reply that you make will be published on the internet. More information on how Right to Know works can be found at:  
<https://www.righttoknow.org.au/help/officers>

If you find this service useful as an FOI officer, please ask your web manager to link to us from your organisation's FOI page.

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OFFICIAL: Sensitive  
Personal privacyOFFICIAL: Sensitive  
Personal privacy

**From:** [Ben Fairless](#)  
**To:** [Freedom of Information](#)  
**Cc:** [s 22](#)  
**Subject:** CM: Re: Request for take down of unnecessary background information [SEC=OFFICIAL]  
**Date:** Friday 4 December 2020 12:01:51 AM

---

Hi [s 22](#)

Thanks for reaching out. I think instead of hiding [s 47F](#) name it would be more in line with our policies to just hide the first 6 paragraphs as they aren't relevant at all to the FOI request.

Would you be open to us just replacing the first 6 paragraphs with "extraneous material removed"? The same transparency rules apply (notifying the user and an annotation on the request).

Thanks,  
Ben

—  
Ben Fairless  
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On December 3, 2020, 9:35 AM GMT+8 [foi@industry.gov.au](mailto:foi@industry.gov.au) wrote:

Hi Ben

Further to the below emails, we have received a request which we believe falls into the category of containing unnecessary background and statements.

I have attached the request.

The first six paragraphs of the request are presented as 'background' but contain many inaccurate assumptions and paint a picture of wrongdoing by both [s 47F](#) and [s 22](#)

As such, we would like to request that the information is removed.

We would be happy for the request to be published with a redaction to [s 47F](#) name as follows:

I REQUEST under the Freedom of Information (FOI) Act from the Department of Industry, Science, Energy and Resources (Department) documents containing:  
(1) each RIF webpage [1] update to date including the contents, requests and approvals; and  
(2) the advice provided to Department staff during the tender process that [\[contractor\]](#) is working for MassChallenge.

Please be sure to maintain all names of APS staff with regard to OAIC FOI guidelines 3.54-3.56.

We understand that if you agree to this request, it would be annotated with an explanation that we requested the information be removed.

Thanks for your consideration.

[s 22](#)

OFFICIAL

---

**From:** [s 22](#)  
**Sent:** Tuesday, 10 November 2020 8:40 AM  
**To:** [contact@righttoknow.org.au](mailto:contact@righttoknow.org.au)  
**Cc:** Freedom of Information <[FOI@industry.gov.au](mailto:FOI@industry.gov.au)>  
**Subject:** RE: One further request for take down [SEC=OFFICIAL]  
Thanks Ben

I do feel like the requests we have received aren't entirely focused and do include a lot of background information and complaints. It's this information which is generally causing problems. That said, I'm generally happy with the approach taken so far to remove names from requests.

Fortunately we have begun to receive less requests related to this subject matter. Going forward, if we do receive further requests I'll focus on whether the request includes

those additional arguments/claims and then look to investigate options to limit what is published only to what documents are being requested and any necessary background which gives meaning to the scope.

Thanks for being responsive and reasonable through this.

Thanks

s 22

**From:** Ben Fairless [<mailto:contact@righttoknow.org.au>]

**Sent:** Monday, 9 November 2020 11:10 PM

**To:** s 22

**Cc:** Freedom of Information <[FOI@industry.gov.au](mailto:FOI@industry.gov.au)>

**Subject:** Re: One further request for take down [SEC=OFFICIAL]

Hi s 22

I've had a chance to talk to our Directors. After reflection (and after a few media articles about how we moderate requests) I wrote a blog post on [the topic of moderation](#) on Right to Know.

We try to take what everyone says at face value, and we feel that redaction of names is an appropriate minimal intervention that balances everyone's priorities.

It's worth noting that we ask that people using our service [keep their requests focused](#).

This includes making sure they don't include arguments about their case or statements that could insult or defame someone. I'm happy to review any instances where you think the line has been crossed.

Let me know if you have any questions.

Thanks,

Ben

—

Ben Fairless

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On November 3, 2020, 8:16 PM GMT+8 [contact@righttoknow.org.au](mailto:contact@righttoknow.org.au) wrote:

Hi s 22

Firstly, sorry for the delayed reply. I read your email straight away and have only got the time now to respond. Thanks as well for your detailed email, it really paints a picture of what's going on over there. Considering the sharp uptick in requests to the Department via Right to Know and the number of those requests that have required moderation, I'm planning to catch up with one of OpenAustralia Foundation's directors to work through our position. My initial thoughts are that it goes against the purpose of Right to Know for requests to not be published, however there may be a compromise. In the mean time, if there are any requests that come through that you would like us to review please send them through - We are actively keeping an eye out for them. You also have my mobile, feel free to send me a text (after the email) and I'll check it as soon as possible.

Thanks,

Ben

—

Ben Fairless

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On October 29, 2020, 6:12 PM GMT+8  
s 22 wrote:



Hi Ben

Thanks for your response.

While there are a number of people who are unhappy about the nature of the FOI requests being received, I'm not sure I can go so far as to characterise it as abuse. However the requests do demonstrate a fairly relentless course of action by a number of applicants who hold a misunderstanding of the department's engagement of a contractor s 47F and the role that s 47F played in an assessment of one of the applicant's grant applications.

The repeated FOI requests paint a picture that s 47F engaged in actions inconsistent with his contract and conducted work for the department while conflicted. This is harming s 47F reputation and greatly upsetting his family.

In addition, the applicants are targeting specific department staff including members of my team and relevant staff in the line area. Their requests show that they are trying to 'name and shame' staff members, attempting to directly contact departmental staff members, and sending emails to the Secretary of the department about these matters. The applicants have made code of conduct complaints against staff members and repeatedly threaten to report staff to various authorities, including the AFP. While my team are fairly conditioned to this class of FOI applicants, we are nonetheless on pretty high alert and cautious of all material going up on RTK.

As mentioned, I wouldn't necessarily call it abuse, so much as harassment and a failure to engage with us in a reasonable manner. The applicants clearly refer to Right to Know in their correspondence.

Do you think there may be some potential avenue to help us address the issue and ensure the wellbeing of our staff and contractors? We would be very open to any limitation which could be put upon the applicants' ability to use Right to Know for these requests, and would be happy to have all requests sent directly to our FOI inbox instead of being put in a public forum.

Kind regards

s 22

**From:** Ben Fairless [<mailto:contact@righttoknow.org.au>]

**Sent:** Tuesday, 27 October 2020 1:56 PM

**To:** s 22

**Subject:** Re: One further request for take down  
[SEC=OFFICIAL]

Hi s 22

Thanks for your emails over the course of the last week.

Please accept my apologies for the delay in responding, due to a technical reason I wasn't made aware of your emails until today.

As requested, we've actioned all of your requests based on the information you've provided. As usual, we don't take a view on if any content is defamatory or untrue, as we don't have the resources to investigate that.

In relation to Mobile Numbers, these should be redacted automatically. You don't need to prove public interest to request their removal, just send me through the details and I'll action it.

In line with our normal process, we will update each request to advise that we redacted names on the request based on information provided by the department.

We are obviously concerned that people are being abused due to their position. I've spoken about this publicly and it's not something that either I or the Foundation stands for. Has anyone engaging in that behavior referenced Right to Know (for example, by saying that they are the applicant of a specific request)? We take a zero tolerance approach to abuse on the platform, and are happy to assist if you can provide additional information that our platform is being used for that purpose.

Kind Regards,  
Ben

—  
Ben Fairless

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[theyvoteforyou](#) | [morph](#)



On October 27, 2020, 10:19 AM GMT+8  
**s 22** wrote:

Hi Ben

I appreciate your actioning these requests.

Would it please also be possible to remove the name **s 47F** and replace with “[contractor]” (or similar) from the title and body of this request:  
**s 47F**

The request alleges that **s 47F** declined to provide documents in response to FOI. In reality, the applicant has misunderstood a s24A decision explaining that a telecommunications provider advised that it won't provide personal call records of **s 47F** to the department without a subpoena.

Kind regards

**s 22**

A/g Principal Legal Counsel | Small  
Business, FOI and Privacy

Legal, Audit and Assurance Branch

Department of Industry, Science,  
Energy and Resources

**s 22**

*I do not work Wednesdays.*

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**From:** [Freedom of Information](#)  
**To:** [contact@righttoknow.org.au](mailto:contact@righttoknow.org.au); [Freedom of Information](#)  
**Cc:** s 22  
**Subject:** CM: RE: Request for take down of unnecessary background information [SEC=OFFICIAL]  
**Date:** Monday 7 December 2020 12:02:54 PM

---

Hi Ben

Thanks for your response – we agree to your proposal.

Thanks

s 22

**From:** Ben Fairless [mailto:[contact@righttoknow.org.au](mailto:contact@righttoknow.org.au)]

**Sent:** Friday, 4 December 2020 12:02 AM

**To:** Freedom of Information

**Cc:** s 22

**Subject:** Re: Request for take down of unnecessary background information [SEC=OFFICIAL]

Hi s 22

Thanks for reaching out. I think instead of hiding s 47F name it would be more in line with our policies to just hide the first 6 paragraphs as they aren't relevant at all to the FOI request. Would you be open to us just replacing the first 6 paragraphs with "extraneous material removed"? The same transparency rules apply (notifying the user and an annotation on the request).

Thanks,

Ben

—

Ben Fairless

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On December 3, 2020, 9:35 AM GMT+8 [foi@industry.gov.au](mailto:foi@industry.gov.au) wrote:

Hi Ben

Further to the below emails, we have received a request which we believe falls into the category of containing unnecessary background and statements.

I have attached the request.

The first six paragraphs of the request are presented as 'background' but contain many inaccurate assumptions and paint a picture of wrongdoing by both s 47F and s 22

. As such, we would like to request that the information is removed.

We would be happy for the request to be published with a redaction to s 47F name as follows:

I REQUEST under the Freedom of Information (FOI) Act from the Department of Industry, Science, Energy and Resources (Department) documents containing:

(1) each RIF webpage [1] update to date including the contents, requests and approvals; and

(2) the advice provided to Department staff during the tender process that [contractor] is working for MassChallenge.

Please be sure to maintain all names of APS staff with regard to OAIC FOI guidelines 3.54-3.56.

We understand that if you agree to this request, it would be annotated with an explanation that we requested the information be removed.

Thanks for your consideration.

s 22

OFFICIAL

## OFFICIAL

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**From:** s 22**Sent:** Tuesday, 10 November 2020 8:40 AM**To:** [contact@righttoknow.org.au](mailto:contact@righttoknow.org.au)**Cc:** Freedom of Information <[FOI@industry.gov.au](mailto:FOI@industry.gov.au)>**Subject:** RE: One further request for take down [SEC=OFFICIAL]

Thanks Ben

I do feel like the requests we have received aren't entirely focused and do include a lot of background information and complaints. It's this information which is generally causing problems. That said, I'm generally happy with the approach taken so far to remove names from requests.

Fortunately we have begun to receive less requests related to this subject matter. Going forward, if we do receive further requests I'll focus on whether the request includes those additional arguments/claims and then look to investigate options to limit what is published only to what documents are being requested and any necessary background which gives meaning to the scope.

Thanks for being responsive and reasonable through this.

Thanks

s 22

**From:** Ben Fairless [<mailto:contact@righttoknow.org.au>]**Sent:** Monday, 9 November 2020 11:10 PM**To:** s 22**Cc:** Freedom of Information <[FOI@industry.gov.au](mailto:FOI@industry.gov.au)>**Subject:** Re: One further request for take down [SEC=OFFICIAL]

Hi s 22

I've had a chance to talk to our Directors. After reflection (and after a few media articles about how we moderate requests) I wrote a blog post on [the topic of moderation](#) on Right to Know.

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Let me know if you have any questions.

Thanks,

Ben

—

Ben Fairless

[OpenAustralia Foundation](#)[openaustralia](#) | [planningalerts](#) | [electionleaflets](#) | [righttoknow](#) | [theyvoteforyou](#) | [morph](#)

On November 3, 2020, 8:16 PM GMT+8 [contact@righttoknow.org.au](mailto:contact@righttoknow.org.au) wrote:

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Do you think there may be some potential avenue to help us address the issue and ensure the wellbeing of our staff and contractors? We would be very open to any limitation which could be put upon the applicants' ability to use Right to Know for these requests, and would be happy to have all requests sent directly to our FOI inbox instead of being put in a public forum.

Kind regards

s 22

**From:** Ben Fairless [<mailto:contact@righttoknow.org.au>]

**Sent:** Tuesday, 27 October 2020 1:56 PM

**To:** s 22

**Subject:** Re: One further request for take down  
[SEC=OFFICIAL]

Hi s 22

Thanks for your emails over the course of the last week. Please accept my apologies for the delay in responding, due to a technical reason I wasn't made aware of your emails until today.

As requested, we've actioned all of your requests based on the information you've provided. As usual, we don't take a view on if any content is defamatory or untrue, as we don't have the resources to investigate that.

In relation to Mobile Numbers, these should be redacted automatically. You don't need to prove public interest to request their removal, just send me through the details and I'll action it.

In line with our normal process, we will update each request to advise that we redacted names on the request based on information provided by the department.

We are obviously concerned that people are being abused due to their position. I've spoken about this publicly and it's not something that either I or the Foundation stands for. Has anyone engaging in that behavior referenced Right to Know (for example, by saying that they are the applicant of a specific request)? We take a zero tolerance approach to abuse on the platform, and are happy to assist if you can provide additional information that our platform is being used for that purpose.

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The request alleges that s 47F declined to provide documents in response to FOI. In reality, the applicant has misunderstood a s24A decision explaining that a telecommunications provider advised that it won’t provide personal call records of s 47F to the department without a subpoena.

Kind regards

s 22

A/g Principal Legal Counsel | Small  
Business, FOI and Privacy

Legal, Audit and Assurance Branch

Department of Industry, Science,  
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s 22

*I do not work Wednesdays.*

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**From:** [Ben Fairless](#)  
**To:** [Freedom of Information](#)  
**Cc:** [s 22](#)  
**Subject:** CM: Re: Request for take down of unnecessary background information [SEC=OFFICIAL]  
**Date:** Monday 7 December 2020 07:54:10 PM

---

Hi [s 22](#)

Thanks. This has now been actioned.

Kind Regards,  
Ben

—  
Ben Fairless

[OpenAustralia Foundation](#)  
[openaustralia](#) | [planningalerts](#) | [electionleaflets](#) | [righttoknow](#) | [theyvoteforyou](#) | [morph](#)

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Thanks for your response – we agree to your proposal.  
Thanks  
[s 22](#)

**From:** Ben Fairless [<mailto:contact@righttoknow.org.au>]  
**Sent:** Friday, 4 December 2020 12:02 AM  
**To:** Freedom of Information <[FOI@industry.gov.au](mailto:FOI@industry.gov.au)>  
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Thanks for reaching out. I think instead of hiding [s 47F](#) name it would be more in line with our policies to just hide the first 6 paragraphs as they aren't relevant at all to the FOI request. Would you be open to us just replacing the first 6 paragraphs with "extraneous material removed"? The same transparency rules apply (notifying the user and an annotation on the request).  
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Further to the below emails, we have received a request which we believe falls into the category of containing unnecessary background and statements.  
I have attached the request.  
The first six paragraphs of the request are presented as 'background' but contain many inaccurate assumptions and paint a picture of wrongdoing by both [s 47F](#) and [s 22](#). As such, we would like to request that the information is removed.  
We would be happy for the request to be published with a redaction to [s 47F](#) name as follows:

I REQUEST under the Freedom of Information (FOI) Act from the Department of Industry, Science, Energy and Resources (Department) documents containing:

(1) each RIF webpage [1] update to date including the contents, requests

and approvals; and

(2) the advice provided to Department staff during the tender process that [contractor] is working for MassChallenge.

Please be sure to maintain all names of APS staff with regard to OAIC FOI guidelines 3.54-3.56.

We understand that if you agree to this request, it would be annotated with an explanation that we requested the information be removed.

Thanks for your consideration.

s 22

OFFICIAL  
OFFICIAL

**From:** s 22

**Sent:** Tuesday, 10 November 2020 8:40 AM

**To:** [contact@righttoknow.org.au](mailto:contact@righttoknow.org.au)

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Thanks for being responsive and reasonable through this.

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**From:** [Ben Fairless](#)  
**To:** [Freedom of Information](#)  
**Cc:** s 22  
**Subject:** CM: Re: Request for take down of unnecessary background information [SEC=OFFICIAL]  
**Date:** Wednesday 9 December 2020 02:42:01 PM

---

Hi s 22

Our directors and I have re-reviewed this request, and have decided to allow more material on the site than we previously agreed.

You can see the revised changes here:

[https://www.righttoknow.org.au/request/regional\\_incubator\\_facilitator\\_w](https://www.righttoknow.org.au/request/regional_incubator_facilitator_w)

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**To:** [contact@righttoknow.org.au](mailto:contact@righttoknow.org.au)  
**Cc:** s 22  
**Subject:** CM: RE: New take down request [SEC=OFFICIAL]  
**Date:** Monday 21 December 2020 10:59:12 AM

Hi Ben

Sorry in turn also for the delay in getting back to you.

Thanks for the explanation of your balancing act. In response to your question, yes, the FOI team within the Legal, Audit and Assurance Branch processes all FOI requests for the Department. However, your response appears to be saying that the position you've reached is that you'll only remove ancillary material where it is potentially defamatory or may subject individuals to harassment.

In this case you say that the ancillary material is ok because it raises concerns about the Department generally rather than specific individuals. Our view is that the material still squarely falls within the category of material which RTK ask applicants not to include on its website – that is material which includes arguments about the applicant's cause and statements that could insult others. Including this sort of information is harming us greatly – for instance we are receiving high numbers of requests relating to fraud documents simply because unrelated third parties are seeing these claims that the department is non-compliant with fraud legislation and these third parties are then repeating the allegations in a number of forums and submitting their own requests for documents. The requests we are receiving are rising exponentially.

Although I know you don't engage in the content of the requests, to illustrate our point, documents produced by the department which are available on RTK show clearly that the department conducts fraud risk assessments in two-yearly cycles and that one fraud risk assessment was performed at the beginning of the first cycle and the next fraud risk assessment was performed at the end of the next cycle. This is why the fraud risk assessments were conducted 37 months apart and is consistent with the department's fraud plan. However, we have now received numerous requests for fraud documents.

Similarly, the applicants have a misunderstanding of the operation of s17 of the FOI Act and repeatedly request the department to provide information or to create documents for them (like this request does). I assume you're aware that this is an incorrect understanding of how the FOI Act operates and it's also contrary to guidance RTK provides under the heading "Why do I have to ask for specific existing documents". Applicants' claims about the department's interpretation of s17 of the Act are spreading misinformation about how the Act operates and also insulting my staff by continual references to their failure to use their 'eyes and brains'. I have had several staff members in tears over the continual harassment they are receiving through these RTK requests.

In essence it's still our view that it's in the public interest that the ancillary material should be removed from this and all requests as it spreads misinformation, encourages abuse of the FOI process, and insults my staff and other departmental officials without any factual basis.

As the requests are escalating we have engaged Minter Ellison to manage them and will be briefing them this afternoon. I'll be asking Minter Ellison to continue monitoring the RTK website and engaging with you as necessary.

s 47F, s 22 (copied in) will be taking the reins for the next month.

Thanks

s 22

**From:** Ben Fairless [mailto:contact@righttoknow.org.au]

**Sent:** Friday, 11 December 2020 1:14 PM

**To:** s 22

**Subject:** Re: New take down request [SEC=OFFICIAL]

Hi s 22,

Sorry for the delay. I've been waiting on a catch up with the Directors of OpenAustralia Foundation (the charity behind Right to Know) as we work to refine our policies.

We are trying to balance keeping as much of the request up on the site as possible while still preventing potentially defamatory material and material that could cause individuals to be the subject of harassment. As I'm sure you can appreciate, it's a really fine line and a balancing act for us.

In this case, the part above the FOI request appears to mostly be raising concerns (albeit not in the most productive way) about the Department generally rather than specific individuals.

Could you confirm that s 47F is correct that the Legal, Audit and Assurance Branch processes all FOI requests for the Department?

If so, we are prepared to remove:

- References to the Legal, Audit and Assurance Branch in the request
- Everything contained under the heading NOTICE (after the FOI request).

Let me know if you have any questions or want to discuss further.

Kind Regards,

Ben

—

Ben Fairless

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On December 8, 2020, 9:24 AM GMT+8 [contact@righttoknow.org.au](mailto:contact@righttoknow.org.au) wrote:

Hi s 22

Just confirming receipt of your email. I'll be in touch when I've had the opportunity to review further.

Thanks,

Ben

—

Ben Fairless

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On December 8, 2020, 5:27 AM GMT+8 s 22

wrote:

Hi Ben

Could we please also request that you remove the ancillary information from the below request, with only the text under the heading "Request" remaining?

Thanks  
s 22

A/g Principal Legal Counsel | Small Business, FOI and Privacy | Legal, Audit and Assurance Branch  
s 22

I do not work Wednesdays.

This transmission may contain confidential or legally privileged information. If you are not the intended recipient, you are notified that any use or dissemination of this communication is strictly prohibited.  
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-----Original Message-----

From: s 47F [mailto:foi+request-6959-bc35a079@righttoknow.org.au]

Sent: Monday, 7 December 2020 5:09 PM

To: Freedom of Information <FOI@industry.gov.au>

Subject: Freedom of Information request - Internal systems of control

Department of Industry, Science, Energy and Resources Legal Branch GPO Box 2013 Canberra ACT 2601

ATT FOI Coordinator

I am requesting access to information under the Freedom of Information Act.

BACKGROUND

s 47F received this response with respect to the Department's (non)compliance with finance legislation here-

<https://www.righttoknow.org.au/request/6697/response/18819/attach/4/67013%20FOI%20Answers.pdf>

The Department appropriates \$3.9 billion per annum yet it had not conducted a single divisional fraud risk-assessment for AusIndustry in over 37 months.

The branch responsible for this debacle is the Legal Audit and Assurance branch; also entrusted with managing Department FOI requests.

Notably, the Department held that it will not release documents with reports under section 17 without a ready-made 'database' as its staff struggles with having to use their "eyes and brains" in completing such tasks-

<https://www.righttoknow.org.au/request/6788/response/19331/attach/4/67287%20Combined%20documents%20AR.pdf> (pg. 28 para. 200).

Recently, the Department declined another report under section 17, claiming that it refuses access to information under the act whilst its website states that to make an application "you must submit a request in writing stating that you're requesting information under the Act"- <https://www.industry.gov.au/about-us/freedom-of-information>

REQUEST

I am requesting a document that contains a report with A-C as follows (for each Department Division from 1 January 2016 until 1 January 2020)- A. Number of completed fraud risk assessments as per s 6 and s 7.6 of the Fraud and Corruption Control Plan 2018-20 (FCCP).

B. Number of completed fraud audits as per s 14.2 of the FCCP C. Number of completed fraud detection compliance reviews as per s 14.4 of the FCCP.

A simple report with these numbers will suffice.

NOTICE

I hereby allege that the Legal Audit and Assurance branch of the Department is likely withholding access under the FOI Act to suppress its non-compliance with finance/fraud legislation. I will report further non-acceptance of this FOI request to the authorities under suspicion of abuse of public office. This is your final warning.

DELIVERY

via [righttoknow.org.au](https://www.righttoknow.org.au)

s 47F

-----  
Please use this email address for all replies to this request:

[foi+request-6959-bc35a079@righttoknow.org.au](mailto:foi+request-6959-bc35a079@righttoknow.org.au)

Is [FOI@industry.gov.au](mailto:FOI@industry.gov.au) the wrong address for Freedom of Information requests to Department of Industry, Innovation and Science? If so, please contact us using this form:

[https://www.righttoknow.org.au/change\\_request/new?body=department\\_of\\_industry\\_innovation\\_and\\_science](https://www.righttoknow.org.au/change_request/new?body=department_of_industry_innovation_and_science)

This request has been made by an individual using Right to Know. This message and any reply that you make will be published on the internet. More information on how Right to Know works can be found at: <https://www.righttoknow.org.au/help/officers>

If you find this service useful as an FOI officer, please ask your web manager to link to us from your organisation's FOI page.

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OFFICIAL

**From:** [Freedom of Information](#)  
**To:** [contact@righttoknow.org.au](mailto:contact@righttoknow.org.au)  
**Cc:** [Freedom of Information](#); s 22  
**Subject:** CM: Request for take down of unnecessary background information [SEC=OFFICIAL]  
**Date:** Thursday 3 December 2020 12:35:12 PM  
**Attachments:** [Freedom of Information request - Regional Incubator Facilitator webpage.msg](#)

---

Hi Ben

Further to the below emails, we have received a request which we believe falls into the category of containing unnecessary background and statements.

I have attached the request.

The first six paragraphs of the request are presented as 'background' but contain many inaccurate assumptions and paint a picture of wrongdoing by both s 47F and s 22

As such, we would like to request that the information is removed.

We would be happy for the request to be published with a redaction to s 47F name as follows:

I REQUEST under the Freedom of Information (FOI) Act from the Department of Industry, Science, Energy and Resources (Department) documents containing:

- (1) each RIF webpage [1] update to date including the contents, requests and approvals; and
- (2) the advice provided to Department staff during the tender process that [contractor] is working for MassChallenge.

Please be sure to maintain all names of APS staff with regard to OAIC FOI guidelines 3.54-3.56.

We understand that if you agree to this request, it would be annotated with an explanation that we requested the information be removed.

Thanks for your consideration.

s 22

OFFICIAL

---

**From:** s 22  
**Sent:** Tuesday, 10 November 2020 8:40 AM  
**To:** [contact@righttoknow.org.au](mailto:contact@righttoknow.org.au)  
**Cc:** Freedom of Information  
**Subject:** RE: One further request for take down [SEC=OFFICIAL]

Thanks Ben

I do feel like the requests we have received aren't entirely focused and do include a lot of background information and complaints. It's this information which is generally causing problems. That said, I'm generally happy with the approach taken so far to remove names from requests.

Fortunately we have begun to receive less requests related to this subject matter. Going forward, if we do receive further requests I'll focus on whether the request includes those additional arguments/claims and then look to investigate options to limit what is published only to what documents are being requested and any necessary background which gives meaning to the scope.

Thanks for being responsive and reasonable through this.

Thanks

s 22

**From:** Ben Fairless [<mailto:contact@righttoknow.org.au>]  
**Sent:** Monday, 9 November 2020 11:10 PM  
**To:** s 22

**Cc:** Freedom of Information <[FOI@industry.gov.au](mailto:FOI@industry.gov.au)>

**Subject:** Re: One further request for take down [SEC=OFFICIAL]

Hi s 22

I've had a chance to talk to our Directors. After reflection (and after a few media articles about how we moderate requests) I wrote a blog post on [the topic of moderation](#) on Right to Know.

We try to take what everyone says at face value, and we feel that redaction of names is an appropriate minimal intervention that balances everyone's priorities.

It's worth noting that we ask that people using our service [keep their requests focused](#). This includes making sure they don't include arguments about their case or statements that could insult or defame someone. I'm happy to review any instances where you think the line has been crossed.

Let me know if you have any questions.

Thanks,

Ben

—

Ben Fairless

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On November 3, 2020, 8:16 PM GMT+8 [contact@righttoknow.org.au](mailto:contact@righttoknow.org.au) wrote:

Hi s 22

Firstly, sorry for the delayed reply. I read your email straight away and have only got the time now to respond. Thanks as well for your detailed email, it really paints a picture of what's going on over there.

Considering the sharp uptick in requests to the Department via Right to Know and the number of those requests that have required moderation, I'm planning to catch up with one of OpenAustralia Foundation's directors to work through our position. My initial thoughts are that it goes against the purpose of Right to Know for requests to not be published, however there may be a compromise.

In the mean time, if there are any requests that come through that you would like us to review please send them through - We are actively keeping an eye out for them. You also have my mobile, feel free to send me a text (after the email) and I'll check it as soon as possible.

Thanks,

Ben

—

Ben Fairless

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On October 29, 2020, 6:12 PM GMT+8

s 22

wrote:

Hi Ben

Thanks for your response.

While there are a number of people who are unhappy about the nature of the FOI requests being received, I'm not sure I can go so far as to characterise it as abuse. However the requests do demonstrate a fairly relentless course of action by a number of applicants who hold a



misunderstanding of the department's engagement of a contractor s 47F and the role that s 47F played in an assessment of one of the applicant's grant applications.

The repeated FOI requests paint a picture that s 47F engaged in actions inconsistent with his contract and conducted work for the department while conflicted. This is harming s 47F reputation and greatly upsetting his family.

In addition, the applicants are targeting specific department staff including members of my team and relevant staff in the line area. Their requests show that they are trying to 'name and shame' staff members, attempting to directly contact departmental staff members, and sending emails to the Secretary of the department about these matters. The applicants have made code of conduct complaints against staff members and repeatedly threaten to report staff to various authorities, including the AFP. While my team are fairly conditioned to this class of FOI applicants, we are nonetheless on pretty high alert and cautious of all material going up on RTK.

As mentioned, I wouldn't necessarily call it abuse, so much as harassment and a failure to engage with us in a reasonable manner. The applicants clearly refer to Right to Know in their correspondence. Do you think there may be some potential avenue to help us address the issue and ensure the wellbeing of our staff and contractors? We would be very open to any limitation which could be put upon the applicants' ability to use Right to Know for these requests, and would be happy to have all requests sent directly to our FOI inbox instead of being put in a public forum.

Kind regards

s 22

**From:** Ben Fairless [<mailto:contact@righttoknow.org.au>]

**Sent:** Tuesday, 27 October 2020 1:56 PM

**To:** s 22

**Subject:** Re: One further request for take down [SEC=OFFICIAL]

Hi s 22

Thanks for your emails over the course of the last week. Please accept my apologies for the delay in responding, due to a technical reason I wasn't made aware of your emails until today. As requested, we've actioned all of your requests based on the information you've provided. As usual, we don't take a view on if any content is defamatory or untrue, as we don't have the resources to investigate that.

In relation to Mobile Numbers, these should be redacted automatically. You don't need to prove public interest to request their removal, just send me through the details and I'll action it. In line with our normal process, we will update each request to advise that we redacted names on the request based on information provided by the department.

We are obviously concerned that people are being abused due to their position. I've spoken about this publicly and it's not something that either I or the Foundation stands for. Has anyone engaging in that behavior referenced Right to Know (for example, by saying that they are the applicant of a specific request)? We take a zero tolerance approach to abuse on the platform, and are happy to assist if you can provide additional information that our platform is being used for that purpose.

Kind Regards,

Ben

—  
Ben Fairless

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[theyvoteforyou](#) | [morph](#)



On October 27, 2020, 10:19 AM GMT+8

s 22

wrote:

Hi Ben

I appreciate your actioning these requests.

Would it please also be possible to remove the name

s 47F

and replace with “[contractor]” (or similar) from the title and body of this request:

s 47F

The request alleges that s 47F declined to provide documents in response to FOI. In reality, the applicant has misunderstood a s24A decision explaining that a telecommunications provider advised that it won’t provide personal call records of s 47F to the department without a subpoena.

Kind regards

s 22

A/g Principal Legal Counsel | Small  
Business, FOI and Privacy

Legal, Audit and Assurance Branch

Department of Industry, Science, Energy  
and Resources

s 22

*I do not work Wednesdays.*

This transmission is intended only for the use of the addressee and may contain confidential or legally privileged information. If you are not the intended recipient, you are notified that any use or dissemination of this communication is strictly prohibited. If you have received this transmission in error, please notify me immediately by telephone and delete copies of this transmission together with any attachments.

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**From:** s 47F  
**To:** [Freedom of Information](#)  
**Subject:** Freedom of Information request - Regional Incubator Facilitator webpage  
**Date:** Tuesday 1 December 2020 11:55:32 PM

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On 1 February 2018, as part of the Regional Incubator Facilitator (RIF) tender process, an addendum was published noting that: "If a company that is an incubator or provides incubator services was successful in the tender process, the company would need to ensure that the individual fulfilling the Regional Incubator Facilitator services: did not complete any work for the incubator, for example, but not limited to, delivery of programs and services, promotion of the incubator's services; is engaged solely to conduct Regional Incubator Facilitator services; and there is a clear and visible separation between the Regional Incubator Facilitator and the incubator." [1]

s 47F

On 8 June 2018, an update was made to the Incubator Support Initiative webpage for Regional Incubator Facilitators (RIF) [4] s 47F

s 47F

On 20 June 2018, s 22 as the Incubator Support Initiative program manager  
s 47F

In June 2020, the RIF webpage was removed.

I REQUEST under the Freedom of Information (FOI) Act from the Department of Industry, Science, Energy and Resources (Department) documents containing:  
(1) each RIF webpage [1] update to date including the contents, requests and approvals; and  
(2) the advice provided to Department staff during the tender process that s 47F is working for s 47F

Please be sure to maintain all names of APS staff with regard to OAIC FOI guidelines 3.54-3.56.

Faithfully,  
s 47F

## REFERENCES

[1] Page 6 in <https://protect-au.mimecast.com/s/iby0CROANAtBBY5gfVg-S6?domain=righttoknow.org.au>

[2] <https://protect-au.mimecast.com/s/suyMCVAGRGt99BgPfo14cO?domain=twitter.com>

[3] [https://protect-au.mimecast.com/s/ijRCCWLJVJcGG3DyiMUhXM?](https://protect-au.mimecast.com/s/ijRCCWLJVJcGG3DyiMUhXM?domain=tenders.gov.au)  
domain=tenders.gov.au

[4] Regional Incubator Facilitator webpage  
[https://protect-au.mimecast.com/s/zuNQCXLKWKc00AOMUzVbXj?](https://protect-au.mimecast.com/s/zuNQCXLKWKc00AOMUzVbXj?domain=web.archive.org)  
domain=web.archive.org

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Please use this email address for all replies to this request:  
[foi+request-6939-0c647c00@righttoknow.org.au](mailto:foi+request-6939-0c647c00@righttoknow.org.au)

Is [FOI@industry.gov.au](mailto:FOI@industry.gov.au) the wrong address for Freedom of Information requests to Department of Industry, Innovation and Science? If so, please contact us using this form:  
[https://protect-au.mimecast.com/s/f84mCP7yLyhMMg35CJFm8y?](https://protect-au.mimecast.com/s/f84mCP7yLyhMMg35CJFm8y?domain=righttoknow.org.au)  
domain=righttoknow.org.au

This request has been made by an individual using Right to Know. This message and any reply that you make will be published on the internet. More information on how Right to Know works can be found at:  
[https://protect-au.mimecast.com/s/n5r2CQnzMzhrrVoNflspvk?](https://protect-au.mimecast.com/s/n5r2CQnzMzhrrVoNflspvk?domain=righttoknow.org.au)  
domain=righttoknow.org.au

If you find this service useful as an FOI officer, please ask your web manager to link to us from your organisation's FOI page.

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**From:** s 22  
**To:** s 22  
**Cc:** [Incubator Support Programme Management; Freedom of Information](#)  
**Subject:** CM: RE: non SES officers names in new request on RTK [SEC=OFFICIAL]  
**Date:** Monday 30 November 2020 10:22:00 AM  
**Attachments:** [image001.png](#)

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Thanks s 22

As with the request last time, I don't think there are strong grounds to request that these names be removed.

Such a request wouldn't be consistent with RTK's take-down policy as it doesn't contain any information alleging any wrong-doing or any other information which is irrelevant to the request.

I'm also particularly cautious about making take-down requests which aren't strictly necessary due to the fact that each request becomes annotated and the applicants have made FOI requests for my correspondence with RTK.

Thanks  
s 22

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#### OFFICIAL

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**From:** s 22  
**Sent:** Monday, 30 November 2020 9:32 AM  
**To:** s 22  
**Cc:** Incubator Support Programme Management  
**s 47E(d)**  
**Subject:** non SES officers names in new request on RTK [SEC=OFFICIAL]  
**Importance:** High

Hi s 22

A new FOI request on RTK names two non SES officers and I believe we should request that both names be redacted.

[https://www.righttoknow.org.au/request/incubator\\_support\\_initiative\\_app](https://www.righttoknow.org.au/request/incubator_support_initiative_app)

Please note that is just my own opinion, and I am of course happy to be advised if such a request is not appropriate.

While s 22 has previously stated she has no issue with being named, that was for a separate request and a different context and I believe both names should be redacted on this occasion (and all future occasions) or we will create a precedent.

Kind regards

s 22

A/g Assistant Manager

AusIndustry | Entrepreneurs' Programme Branch | **Incubator Support**

Department of Industry, Science, Energy and Resources

s 22

[business.gov.au/EP](https://business.gov.au/EP)

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