

Determination

External review - section 39 *Freedom of Information Act 1991*

Applicant	Ms Keshni Maharaj
Agency	Department of Treasury and Finance
Ombudsman reference	2019/09666
Agency reference	T&F 19/0257
Determination	The determination of the agency is varied.

REASONS

Application for access

1. By application under the *Freedom of Information Act 1991* (the FOI Act) the applicant requested access from the agency to:
 1. All correspondence or other documents (including emails, file notes, position papers or other documents in electronic form) that was prepared by, for, or on behalf of the Commissioner of State Taxation on or after 1 October 2017 which relate to or refer to [REDACTED] including, without limitation, any correspondence concerning the issue or redemption of units in [REDACTED] in June 2014;
 2. To the extent that this request has not been answered pursuant to the above requests, all correspondence or other documents (including emails, file notes or other documents whether or not in electronic form) received by the Commissioner of State Taxation, his or her delegates or otherwise by the agency that were provided in the course of, or otherwise relate to, the above matter [REDACTED] and which relate to the acquisition of the units in [REDACTED] or the property known as the Coles Distribution Centre (Adelaide) located at 2 Sturton Road Edinburgh 5111. For avoidance of doubt, this class of documents only includes documents or other correspondence received between 1 October 2017 and 18 December 2018 from any of the following entities:
 - (a) [REDACTED]
 - (b) [REDACTED]
 3. To the extent that this request has not been answered pursuant to the above requests, all correspondence or any other documents (including emails, file notes or other documents whether or not in electronic form) which are either dated or, were exchanged between 1 October 2017 and 18 December 2018 between any officers, agents or employees of the agency where that correspondence or document relates to, or refers to, [REDACTED] or the above matter ([REDACTED]). In particular, copies of all correspondence that meets the description in this part (3) that was either sent to, or received by, any of the following officers of RevenueSA:

- (a) Mark Maynard;
- (b) Natasha Simms;
- (c) Todd McDonald; and
- (d) Richard Bardadyn.

4. To the extent that this request has not been answered pursuant to the above requests, any advice received by or on behalf of the Commissioner of State Taxation or the agency on or after 1 October 2017 in relation to the application of the *Stamp Duties Act 1923 (SA)* and/or the *Taxation Administration Act 1996 (SA)* to [REDACTED]. In particular, any advice that that was received by the Commissioner of State Taxation or the agency which relates to the stamp duty consequences of the issue or redemption of units in [REDACTED] or the acquisition of the property known as [REDACTED]
2. After consultation between the agency and the applicant, the scope of the request was revised to exclude documents provided to Revenue SA by Clayton Utz or by their client, [REDACTED]

Background

3. For ease of reference, procedural steps relating to the application and the external review are set out in Appendix 1.

Jurisdiction

4. This external review is within the jurisdiction of the Ombudsman as a relevant review authority under section 39 of the FOI Act.

Provisional determination

5. I provided my tentative view about the agency's determination to the parties, by my provisional determination dated 15 April 2020. I informed the parties that subject to my receipt and consideration of submissions from the parties I proposed to vary the agency's determination.
6. Neither party made further submissions in response to my provisional determination.

Relevant law

7. A person has a legally enforceable right to be given access to an agency's documents in accordance with the FOI Act.¹
8. The FOI Act provides that upon receipt of an access application, an agency may make a determination to refuse access where the documents are 'exempt'. Schedule 1 lists various exemption clauses which may be claimed by an agency as a basis for refusing access.
9. Clauses 9(1), 10(1) and 12 of Schedule 1 are relevant for this determination.

9—Internal working documents

- (1) A document is an exempt document if it contains matter—
 - (a) that relates to—

¹ *Freedom of Information Act 1991*, section 12.

- (i) any opinion, advice or recommendation that has been obtained, prepared or recorded; or
 - (ii) any consultation or deliberation that has taken place, in the course of, or for the purpose of, the decision-making functions of the Government, a Minister or an agency; and
- (b) the disclosure of which would, on balance, be contrary to the public interest.

10–Documents subject to legal professional privilege

- (1) A document is an exempt document if it contains matter that would be privileged from production in legal proceedings on the ground of legal professional privilege.

12–Documents the subject of secrecy provisions

- (1) A document is an exempt document if it contains matter the disclosure of which would constitute an offence against an Act.
- (2) A document is not an exempt document by virtue of this clause unless disclosure of the matter contained in the document, to the person by or on whose behalf an application for access to the document is made, would constitute such an offence.

10. Under section 48, the onus is on the agency to justify its determination 'in any proceedings'. This includes the external review process.
11. Section 39(11) provides that the Ombudsman may confirm, vary or reverse the agency's determination in an external review, based on the circumstances existing at the time of review.

Documents in issue

12. The agency identified 89 documents within the scope of the application.
13. The agency determined to grant access in full to 71 documents, to grant partial access to documents 25, 32 - 34 and 35a, and to refuse access to documents 29, 36, 37, 39 - 41, 41b, 46 - 46b.

Issues in this review

14. The issue in this review is whether the agency has correctly determined the documents identified by number above to be exempt under Schedule 1 to the FOI Act.

Consideration

Clause 10(1)

15. The agency determined that documents 25, 32 - 34 and 35a were exempt under clause 10(1) and proceeded to partially release those documents with exempt material redacted.
16. Each of the five documents listed above is a version of the same minute to the Manager, Legislative Services, Revenue SA, which appear to have been prepared and updated variously between May 2018 and July 2018. Each version of the minute has the same three redactions of material that the agency considers to be exempt under clause 10(1).

17. The redactions refer to legal advice provided by the Crown Solicitor's Office (CSO) to the agency in relation to a matter involving another taxpayer. It is apparent from the context of the references that the author of the minute has considered that legal advice in connection with matters covered in the minute and that he is inviting the recipient of the minute to do the same.
18. The first of the redactions contains a reference to two documents which are stated to be the legal advices in issue.
19. The second of the redactions is of a request to consider the application of that earlier legal advice to the matter under consideration by the agency.
20. The third redaction is to the index of attachments to the minute and sets out the document references to, and the authors of, the two earlier legal advices.
21. The two earlier legal advices are not attached to any of the versions of the minute under review.
22. The exemption provided by clause 10(1) allows an agency to refuse access to a document where the document is subject to legal professional privilege.
23. The test to determine whether a document is subject to legal professional privilege was considered by the High Court in *Esso Australia Resources Limited v Commissioner of Taxation of the Commonwealth of Australia*². The privilege attaches to documents that reveal confidential communications between a client and his or her lawyer made for the dominant purpose of giving or obtaining legal advice or the provision of legal services, including representation in legal proceedings.
24. The agency's claim that the redacted portions of the documents under consideration comprise exempt material appears to be based on the fact that they refer to advice provided by CSO. This is apparent both from the redactions themselves and from the agency's internal review determination, which provides:

These documents contain legal advice provided to the government by its legal advisor, the Crown Solicitor, information which is subject to legal professional privilege
25. For the purposes of this external review, and in the absence of any evidence to the contrary, I accept the agency's contention that the legal advice in question is subject to legal professional privilege.
26. My view is that the second of the redactions, which appears on page 6 of each of the documents under the heading 'Section 71E' is material which is exempt under clause 10(1). I have formed this view on the basis that the redacted material discloses part of the legal advice as well as the effect of that advice.
27. I do not consider the other two redactions contain exempt material as they do not meet the test in *Esso Australia Resources Limited v Commissioner of Taxation of the Commonwealth of Australia* set out above.

Clause 12(1)

28. The agency claims documents 29, 36, 37, 39-41, 41b and 46 - 46b are exempt in full pursuant to clause 12(1). The substance of this claim is that disclosure of these documents would be an offence under section 77 of the *Tax Administration Act 1996* (TAA).

² (1999) 201 CLR 49

29. The relevant provisions of the TAA are set out below:

77—Prohibition of certain disclosures by tax officers

A person who is or has been a tax officer must not disclose any information obtained under or in relation to the administration or enforcement of a taxation law, except as permitted by this Part.

Maximum penalty: \$10 000.

78—Permitted disclosure in particular circumstances or to particular persons

A tax officer may disclose information obtained under or in relation to the administration or enforcement of a taxation law—

- (a) with the consent of the person to whom the information relates or at the request of a person acting on behalf of the person to whom the information relates; or
- (b) in connection with the administration or enforcement of a taxation law, the *Petroleum Products Regulation Act 1995* or a law of a recognised jurisdiction relating to taxation; or
- (c) for the purposes of legal proceedings under a law referred to in paragraph (b) or reports of such proceedings; or
- (d) to the holder of a prescribed office or a prescribed body established under a law of this jurisdiction or a recognised jurisdiction; or
- (e) as authorised under this Act or the regulations.

79—Permitted disclosures of general nature

The Commissioner may disclose information obtained under or in relation to the administration or enforcement of a taxation law that does not directly or indirectly identify a particular taxpayer.

80—Prohibition of disclosures by other persons

A person other than a person who is or has been a tax officer must not disclose information that—

- (a) has been obtained (whether properly or improperly and whether directly or indirectly) from another person who is or has been a tax officer; and
- (b) the other person obtained under or in relation to a taxation law,

unless—

- (c) the disclosure is of a kind that a tax officer would be permitted to make under this Part; or
- (d) if the person is the holder of an office or a body prescribed for the purposes of section 78(d)—the disclosure is made in connection with the performance of functions conferred or imposed on the person under a law of this jurisdiction or another Australian jurisdiction (including for the purposes of legal proceedings connected with the performance of such functions); or
- (e) the disclosure is made with the consent of the Commissioner.

Maximum penalty: \$10 000.

30. 'Tax officer' is defined for the purposes of the TAA to include the Commissioner of State Taxation, a person authorised under Part 9 of the TAA or a person engaged in the administration or enforcement of a taxation law. For the purposes of the TAA, both the TAA and the *Stamp Duties Act 1923* are considered to be taxation laws³.

³ *Taxation Administration Act 1996*, section 4

31. Section 80 of the TAA extends the prohibition to persons other than those who are or have been a tax officer, in relation to information obtained by them from another person who is or has been a tax officer.
32. Sections 78 and 79 provide circumstances in which disclosure of information that would otherwise be prohibited is permitted. For the purposes of this external review I do not consider that section 79 has any application. I have included reference to it for completeness.
33. Part 9 TAA does not specifically permit disclosure of information pursuant to the FOI Act.
34. Sections 77 and 80 of the TAA both carry a maximum penalty of \$10,000 for contravention. Consequently, contravention of either provision is an offence against an Act for the purpose of clause 12(1) of Schedule 1 to the FOI Act.
35. The agency has not made submissions on whether the information set out in the documents identified above was obtained from a tax officer, nor has it made submissions as to the basis for its claim that the specific information in the documents was obtained under or in relation to the administration or enforcement of a taxation law.
36. I have therefore turned to a consideration of the content of the documents in issue.

Document 29

37. Document 29 is a letter on Revenue SA letterhead. It seeks information from the addressee pursuant to the provisions of the TAA and is signed by an authorised delegate of the Commissioner of State Taxation. I have concluded that the signatory is a tax officer for the purposes of the TAA.
38. My view is that disclosure of the contents of this document would *prima facie* be prohibited under sections 77 and 80 of the TAA. The content of the document concerns the administration of a taxation law or laws and the disclosure of its content is not permitted under Part 9 of the TAA.

Documents 36 and 37, 39-41, 41b and 46 - 46b

39. These documents comprise emails or email chains between Revenue SA and a third party. The first of these documents chronologically is document 36. Subsequent documents are email chains which include the earlier emails. For the purposes of this determination, I have referred only to the new emails in each chain, noting that where my view is that disclosure of a particular email would be prohibited under the TAA, that view applies to the content of that email when replicated in subsequent email chains.
40. Each of the emails from Revenue SA was sent by the same person who signed document 29.
41. Document 36 is an email from Revenue SA requesting the third party provide information to the Commissioner of State Taxation.
42. Document 37 contains a response to document 36, providing some of the information sought.
43. Document 39 includes a short, follow-up email from the third party advising its intent to provide further information and a response from Revenue SA seeking additional information to that previously requested.

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44. Document 40 is a response from the third party to the request for additional information sought in document 39.
 45. Document 41 is an email from the third party referring to attached documents, being the remaining information sought in document 36. Document 41b is one of the attachments.
 46. Document 46 is an email from Revenue SA to the third party asking for an additional document and a response from the third party, attaching copies of two documents, documents 46a and 46b.
 47. With the exception of the short, follow-up email in document 39, each of these documents contains information obtained by the tax officer referred to above, under or in relation to the administration or enforcement of a taxation law for the purposes of section 77 of the TAA. I am of the view that these documents are also *prima facie* prohibited under sections 77 and 80 of the TAA.
 48. Before I can determine whether clause 12(1) applies to the documents under review, I must consider whether their disclosure might be permitted under Part 9 of the TAA and relevantly section 78(a).
 49. Section 78(a) of the TAA provides that a tax officer is permitted to disclose documents with the consent of the person to whom the information relates or on the application of a person on behalf of the person to whom the documents relate. If disclosure of the documents is permitted under section 78(a) of the TAA, their release would not be an offence under the Act and consequently they would not be exempt under clause 12(1).
 50. An examination of those documents indicates they relate to the affairs of:
 - [REDACTED]
 - [REDACTED] (which the agency has advised consented to the release of the documents for the purpose of section 78(a) of the TAA)
 - [REDACTED] (whom the applicant represents for the purpose of section 78(a)).
 51. On its face, section 78(a) of the TAA does not appear to contemplate a situation where a document relates to the affairs of more than one person however it seems that, in order for the release of the documents to be permitted under section 78(a), consent to their release would need to be provided by all parties to whom the information relates, including [REDACTED]
 52. In correspondence with my Senior Legal Officer the agency suggested that 'consultation' with [REDACTED] is required before the documents can be released under the FOI Act. I do not consider this to be a situation where the agency is required to consult with [REDACTED] under section 27 of the FOI Act, at least for the purposes of determining whether the documents are exempt under clause 12(1). For consent to be obtained for the purposes of section 78(a) of the TAA, the consent is for release pursuant to the TAA, not for the purposes of the FOI Act.
 53. The jurisdiction of the Ombudsman under section 39 FOI Act does not extend to seeking consent to the release of the documents under the provisions of the TAA.
 54. My view is also that the Ombudsman's power under section 39(5) of the FOI Act to require the agency to undertake consultations is limited to consultations required under the provisions of the FOI Act and not to requiring the agency to seek consent to release of documents pursuant to the provisions of any other Act.

55. My conclusion is therefore that, unless the agency is willing to seek the consent of [REDACTED] voluntarily, the release of documents 29, 36, 37, 39-41, 41b and 46 - 46b remains an offence under sections 77 and 80 of the TAA with the consequence that they are exempt under clause 12(1) of Schedule 1.
56. I have considered whether clause 12(2) of Schedule 1 applies to the documents under consideration. My view is that, for the reasons expressed in paragraph 52 above, it would remain an offence under sections 77 and 80 of the TAA for the documents to be released to the applicant in this case.
57. As I have noted above there is nothing in the short email from the third party sent on 17 July 2018 at 10.27 a.m. (appearing at the top of the second page of document 39) that would render that email exempt under clause 12(1). Release of this portion of document 39 would be possible pursuant to section 20(4) of the FOI Act by redacting the remainder of the document.

Clause 9

58. The agency claims that documents 48a, 54 and 54a are exempt under clause 9(1)(a)(i).
59. Document 48a is an internal agency minute. Essentially it sets out advice on the applicability of the *Stamp Duties Act 1923* and the TAA to various documents and has been provided in response to specific questions posed by the addressee. It is expressed to be a preliminary advice.
60. Document 54 is an internal agency email with an attached minute from the Acting Commissioner of Taxation to the Treasurer (document 54a). There is minimal content to the email. The minute contains a briefing on Revenue SA's (then) ongoing investigation into the acquisition of [REDACTED]. The fact of the investigation itself is not confidential - documents released to the applicant in connection with the application under review disclose the undertaking of the investigation.
61. My view is that document 48a and document 54a both satisfy the elements of clause 9(1)(a) in that they record opinion, advice or recommendation prepared in the course of the agency's decision-making functions.
62. I do not consider that document 54 contains any opinion, advice or recommendation except through its attachment. My view is that document 54 can be released (without the attachment).

Public Interest

63. The purpose of clause 9(1) is to protect the integrity and viability of the governmental decision-making process. It is only if the release of a document would impair this process to a significant or substantial degree, and there no countervailing benefit to the public which outweighs that impairment, that it would be contrary to the public interest to grant access.⁴
64. The issue of whether disclosure would on balance be contrary to public interest was a consideration of the District Court of South Australia in *Ipex Information Technology Group Pty Ltd v The Department of Information Technology Services SA*⁵. In seeking to define the public interest in *Ipex*, Lunn J referred to a decision of the Full Victorian Supreme Court of Appeal in *DPP v Smith* [1991] 1 VR 63:

⁴ *Re Murtagh and Commissioner of Taxation* [1984] AATA 249; [1984] 6 ALD 112

⁵ (1997) 192 LSJS 54; [1997] SADC 87

The public interest is a term embracing matters, among others, of standards of human conduct and of the functioning of government and government instrumentalities tacitly accepted and acknowledged to be for the good order of society and the well being of its members.⁶

65. In forming a view as to where the balance of public interest lies in connection with material claimed to be exempt under clause 9, the decision maker must undertake a balancing of competing public interest considerations to arrive at a determination of where the balance lies in a particular case.
66. Public interest considerations in favour of disclosure include such matters as
- promoting openness in government and accountability of Ministers
 - facilitating effective participation by members of the public in processes involved in the making and administration of laws and policy.
67. On the other hand, public interest considerations against disclosure include promoting
- ... the efficient and economical conduct of government, protection of the deliberative processes of government, particularly at high levels of government and in relation to sensitive issues, and the preservation of confidentiality so as to promote the giving of full and frank advice.⁷
68. The agency, in responding to the FOI application, undertook a balancing between the public interest, on the one hand, in ensuring transparency regarding the operations of government agencies and, on the other hand, in ensuring the effectiveness of investigations into taxation matters are not prejudiced through release of information that would cause such prejudice. It determined that the balance of public interest lies against disclosure in this case.
69. In determining the balance of the public interest in this matter, I consider it useful to have regard to the factors identified by Davies J *Re John Howard and the Treasurer of the Commonwealth of Australia*:⁸, while noting that in *Attorney-General for the State of South Australia v Seven Network (Operations) Ltd*, the Full Court of the Supreme Court of South Australia observed that courts have been careful not to treat the *Howard* factors as mandatory or exhaustive of the public interest.⁹
70. These factors include:
- The higher the office of the persons between whom the communications pass and the more sensitive the issues involved the more likely it will be that the communications should not be disclosed.
 - The disclosure of communications made in the course of the development and consequent promulgation of policy tends not to be in the public interest.
 - Disclosure that will inhibit frankness and candour in future communications is likely to be contrary to the public interest.
 - A further consideration is that disclosure may lead to confusion and unnecessary debate resulting from the disclosure of possibilities that are being considered.
 - Other factors which may need to be taken into account are whether the document is directed to an expert reader and thus assumes an understanding of the subject matter, the extent to which it contains

⁶ *Ipex Information Technology Group Pty Ltd v The Department of Information Technology Services SA* op cit at p 13

⁷ *Secretary, Department of Justice v Osland* [2007] VSCA 96 per Maxwell P at [77]

⁸ (1985) 7 ALD 626 at 634 - 635

⁹ [2019] SASCFC 36 at [127] and [132]

outdated material and whether there has been any publication of the material in other forms.

- Disclosure of documents which do not fairly disclose the reasons for a decision subsequently taken may be unfair to the decision-maker and may prejudice the integrity of the decision-making process.

71. The Victorian Supreme Court has held, that the public interest considerations underlying the exemption (in the Victorian *Freedom of Information Act 1982*) for internal working documents include:

... the efficient and economical conduct of government, protection of the deliberative processes of government, particularly at high levels of government and in relation to sensitive issues, and the preservation of confidentiality so as to promote the giving of full and frank advice.¹⁰

72. In relation to document 48a, I consider the following factors weigh against disclosure:

- the communications relate to deliberative processes of the agency which require the provision of full and frank advice; disclosure will likely inhibit frankness and candour in future communications of a similar nature which has potential to compromise future investigations
- the views expressed are not concluded and disclosure may lead to confusion and unnecessary debate regarding possibilities being considered, and may not inform of the reasons supporting any final decision
- the document is directed to a reader with comprehensive knowledge of State stamp duty and taxation laws and may cause confusion to an audience without that specialist knowledge
- disclosure may prejudice future investigations under the TAA by disclosing investigation methodology and processes

73. In relation to document 54a, the following factors weigh against disclosure:

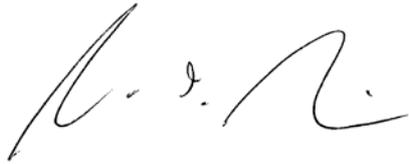
- the communication is at a very high level: from the Acting Commissioner of State Taxation to the Treasurer
- disclosure will likely inhibit frankness and candour in future communications between the agency and its Minister
- matters covered are of a sensitive nature and relate to processes that were not finalised at the time, so may not reflect the final outcome
- disclosure may result in potential confusion and unnecessary debate concerning possibilities that were being considered at the time
- disclosure may prejudice future investigations under the TAA by disclosing investigation methodology and processes

74. In weighing the above factors against disclosure of each document against the factors in support of disclosure outlined in paragraph 64 above, I have reached the conclusion that, on balance, the public interest lies against disclosure in respect of both documents 48a and 54a.

¹⁰ *Secretary, Department of Justice v Osland* [2007] VSCA 96 per Maxwell P at [77]

Determination

75. In light of my views above, I vary the agency's determination in the manner set out in Appendix 2.

A handwritten signature in black ink, appearing to read 'W. Lines', written in a cursive style.

Wayne Lines
SA OMBUDSMAN

13 May 2020

APPENDIX 1

Procedural steps

Date	Event
10 May 2019	The agency received the FOI application dated 8 May 2019.
9 June 2019	The agency failed to determine the application within the 30 day period required by the FOI Act, ¹ and is deemed to have refused access to the documents. ²
27 September 2019	Notwithstanding the deemed refusal to provide access, the agency made a belated determination to (a) give access to some documents ³ , (b) to partially release some documents and (c) to refuse access to other documents.
16 October 2019	The agency received the internal review application dated 8 October 2019.
30 October 2019	The agency failed to determine the application within the statutory time frame, and is taken to have confirmed the original determination. ⁴
5 November 2019	Notwithstanding the deemed confirmation of the original determination, the agency issued an internal review determination in which it confirmed its determination of 27 September 2019.
20 November 2019	The Ombudsman received the applicant's request for external review dated 20 November 2019.
10 January 2020	The Ombudsman advised the agency of the external review and requested submissions and documentation.
31 January 2020	The agency provided the Ombudsman with its submissions and documentation.
15 April 2020	The Ombudsman issued his provisional determination and invited submissions from the parties.

¹ *Freedom of Information Act 1991*, section 14(2).

² *Freedom of Information Act 1991*, section 19(2).

³ *Freedom of Information Act 1991*, section 19(2a).

⁴ *Freedom of Information Act 1991*, section 29(5).

APPENDIX 2

Document in issue	Description	Agency's determination	Ombudsman's determination	Information proposed to be released
25	Draft minute – application of Section 71E of the Stamp Duties Act 1923	Partial release clause 10(1)	Partial release clause 10(1)	All except the material identified at paragraph 26 of this determination
29	Letter from Revenue SA to another entity	Exempt clause 12(1)	Exempt clause 12(1)	Nil
32	Draft minute – application of Section 70 of the Stamp Duties Act 1923	Partial release clause 10(1)	Partial release clause 10(1)	All except the material identified at paragraph 26 of this determination
33	Updated draft minute – application of Section 70 of the Stamp Duties Act 1923	Partial release clause 10(1)	Partial release clause 10(1)	All except the material identified at paragraph 26 of this determination
34	Draft Minute – request for Stamp Duty Advice [REDACTED]	Partial release clause 10(1)	Partial release clause 10(1)	All except the material identified at paragraph 26 of this determination
35a	Draft minute – application of Section 70 of the Stamp Duties Act 1923 (contains track changes)	Partial release clause 10(1)	Partial release clause 10(1)	All except the material identified at paragraph 26 of this determination
36	Email dated 3 July 2018 – RE: Custodian arrangements – [REDACTED]	Exempt clause 12(1)	Exempt clause 12(1)	Nil

Document in issue	Description	Agency's determination	Ombudsman's determination	Information proposed to be released
37	Email dated 3 July 2018 – RE: Custodian arrangements – [REDACTED]	Exempt clause 12(1)	Exempt clause 12(1)	Nil
39	Email dated 17 July 2018 – RE: Custodian arrangements – [REDACTED]	Exempt clause 12(1)	Exempt clause 12(1)	Nil except the material identified at paragraph 57 of this determination
40	Email dated 17 July 2018 – RE: Custodian arrangements – [REDACTED]	Exempt clause 12(1)	Exempt clause 12(1)	Nil
41	Email dated 25 July 2018 – RE: Custodian arrangements – [REDACTED]	Exempt clause 12(1)	Exempt clause 12(1)	Nil
41b	Attachment to document 41 – Letter [REDACTED]	Exempt clause 12(1)	Exempt clause 12(1)	Nil
46	Email dated 28 August 2018 – RE: Custodian arrangements – [REDACTED]	Exempt clause 12(1)	Exempt clause 12(1)	Nil
46a	[REDACTED] Custody Agreement	Exempt clause 12(1)	Exempt clause 12(1)	Nil
46b	Deed of Retirement and Appointment	Exempt clause 12(1)	Exempt clause 12(1)	Nil
48a	Minute	Exempt clause 9(1)(a)	Exempt clause 9(1)(a)	Nil

Document in issue	Description	Agency's determination	Ombudsman's determination	Information proposed to be released
54	Email dated 31 October 2018 – [REDACTED] Minute	Exempt clause 9(1)(a)	Release	All
54a	Attachment to document 54 - Minute	Exempt clause 9(1)(a)	Exempt clause 9(1)(a)	Nil