



Gillian Cameron
Office of the Australian Information Commissioner
By email: gillian.cameron@oaic.gov.au

Notice of IC review and request for documents – John Telford and Treasury

Dear Ms Cameron

I refer to your correspondence dated 19 April 2018, in relation to Mr John Telford's application for Information Commissioner review of Treasury's decision under the *Freedom of Information Act 1982* (the Act) dated 24 March 2017.

Requested information

In your correspondence, you requested a further submission in support of Treasury's original decision and previous submissions to the OAI on 21 August 2017 and 8 March 2018. On 7 May you advised that Treasury could provide a confidential submission on this matter.

In support of this submission, and in order to address the substance of your questions, I sought a letter from APRA. I consider it most appropriate in this case for APRA to address the material harm that would come from releasing this document, as it is APRA's operations that would be so harmed.

The full confidential letter from APRA is at **Attachment A**.

A partially redacted version of the letter, which can be provided to the applicant, is at **Attachment B**.

Treasury's submissions in relation to the questions you raised are set out below, and can be provided to the applicant in full.

Submissions about why exemptions were not relied on in original decision

The original decision was made to exempt the document in full, and the deliberative exemption provision was applied in relation to the entire document.

The proposed revised decision is to exempt the document in part. The exemption provisions recommended for this revised decision are applicable only to certain parts of the document, and would not have been appropriate to apply to the entire document in the first instance.

Treasury maintains that the suggested exemption provisions are applicable to the sections of the document as previously recommended.

Submissions about the passage of time since the document was created

APRA has asserted that the risks discussed in the document are still relevant. Treasury supports APRA's assertion.

Reasonable expectation

The reasonable expectation of harm is demonstrated within the document itself. Mr Telford has made a significant number of public statements about the actual harm that was caused to him, and others, by the collapse of Trio Capital. Within the document, the author specifically describes the relationship between the legislation and the investigation into Trio Capital that led to this harm.

The discussion of the legislation, however, is not limited to Trio Capital. If the document were released, it would reasonably be expected that it would enable others to repeat the actions of Trio Capital. If this happened, then it would expose other people to the same actual harm that Mr Telford himself has been exposed.

Public interest factors

Treasury made submissions relating to public interest in its letter to the OAIC of 8 March 2018. APRA has made a further submission on this issue in the attached letter. Treasury has nothing more to add in support of these submissions.

The applicant's additional contentions

In his submission of 7 May 2018 Mr Telford has drawn a comparison between the document and the banking data breach. The situation that Mr Telford describes relates to notifying potentially affected persons of a privacy breach. Releasing the document would not alert any affected persons to any real or potential harm, but in actuality would expose people like Mr Telford to an increased risk of harm.

While I am sensitive to the fact that Mr Telford has not read the document, I respectfully disagree that the two situations are analogous.

Next steps

Treasury is willing to provide further submissions in relation to the review if required.

Should you have any enquiries concerning the matter, please email FOI@treasury.gov.au.

Yours sincerely,



Ian Beckett
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Fiscal Group