

Date: Wednesday, October 23rd 2019, 06:55:00 PM +08:00 AWST
Subject: Request to remove material from the Right to Know website [SEC=OFFICIAL:Sensitive, ACCESS=Legal-Privilege]
From: Grady, Sayuri <sayuri.grady@apsc.gov.au>
To: <contact@righttoknow.org.au>

OFFICIAL:Sensitive

Legal privilege

Via email: contact@righttoknow.org.au

Dear Right to Know,

The Australian Public Service Commission (the Commission) has concerns about material published on the Right to Know website by third parties. Specifically, the Right to Know website includes defamatory material naming individual employees of the Commission. This material includes false and unsubstantiated allegations.

These individuals have expressed serious concerns about the impact of comments published on your site on themselves, on family members (including children) and on family members' businesses.

We request that you immediately remove the following defamatory posts from your website:

- Correspondence from FOI applicant 'Fliccy' dated 17 October 2019 - https://www.righttoknow.org.au/request/apsc_produced_document_for_the_i#outgoing-11332
- Correspondence from FOI applicant 'Fliccy' dated 12 October 2019 - https://www.righttoknow.org.au/request/apsc_produced_document_for_the_i#outgoing-11299
- Correspondence from FOI applicant 'Fliccy' dated 30 June 2019 - https://www.righttoknow.org.au/request/apsc_produced_document_for_the_i#outgoing-10861
- Correspondence from FOI applicant 'Fliccy' dated 6 July 2018 - https://www.righttoknow.org.au/request/apsc_produced_document_for_the_i#outgoing-9138
- Correspondence from FOI applicant 'Fliccy' dated 23 May 2018 - https://www.righttoknow.org.au/request/apsc_produced_document_for_the_i#outgoing-8948

We note that the recent decision of *Voller v Nationwide News* [2019] NSWSC 766 found that website operators may be liable for defamatory comments published on their web sites by third parties.

I would be happy to discuss.

Yours sincerely,

Sayuri Grady

Sayuri Grady

General Counsel, Legal Services

Australian Public Service Commission

Level 4, B Block, Treasury Building, Parkes Place West, PARKES ACT 2600
GPO Box 3176 CANBERRA ACT 2601

www: www.apsc.gov.au



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Date: Thursday, October 24th 2019, 06:18:33 AM +08:00 AWST
Subject: Re: Request to remove material from the Right to Know website [SEC=OFFICIAL:Sensitive, ACCESS=Legal-Privilege]
From: Ben Fairless via contact@righttoknow.org.au <contact@righttoknow.org.au>
To: Grady, Sayuri <sayuri.grady@apsc.gov.au>

Hi Sayuri,

Thanks for your email. I'm one of the unpaid volunteers at the charity that looks after Right to Know.

Can you let me know specifically what in each link you've provided you are concerned with? The request in question is quite large and contains a lot of information which could be useful to other FOI applicants.

Warm Regards,
Ben

—
Ben Fairless

[OpenAustralia Foundation](#)

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

Date: Thursday, October 24th 2019, 10:35:07 AM +08:00 AWST

Subject: Re: Request to remove material from the Right to Know website [SEC=OFFICIAL:Sensitive, ACCESS=Legal-Privilege]

From: Grady, Sayuri <sayuri.grady@apsc.gov.au>

To: <contact@righttoknow.org.au>

Dear Ben,

Thank you for your quick response.

One of the team will get back to you on your specific question as I am out of the office at the moment.

Sayuri

Sayuri Grady

General Counsel, Legal Services

Australian Public Service Commission

Level 3, B Block, Treasury Building, Parkes Place West, PARKES ACT 2600

GPO Box 3176 CANBERRA ACT 2601

[www.apsc.gov.au](#)

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Date: Thursday, October 24th 2019, 10:36:07 AM +08:00 AWST

Subject: Re: Request to remove material from the Right to Know website [SEC=OFFICIAL:Sensitive, ACCESS=Legal-Privilege]

From: Luton, Chris <chris.luton@apsc.gov.au>

To: <contact@righttoknow.org.au>

Cc: LEGAL <legal@apsc.gov.au>

OFFICIAL:Sensitive

Legal privilege

Dear Mr Fairless

Ms Grady has asked me to forward you the following examples:

https://www.righttoknow.org.au/request/apsc_produced_document_for_the_i#outgoing-8948

- ‘I reject Ms Luck-Cameron’s spurious claim that releasing the names of the APSC staff members involved in this matter would be unreasonable including because that would expose those staff members to “public scrutiny”. That claim has been made for an improper purpose and runs contra not only to the requirements of subsections 10(4) and 13(1) of the Public Service Act 1999 but also the objects of the FOI Act, including Parliament’s intention expressed at paragraph 3(2)(b) of the FOI Act.’

https://www.righttoknow.org.au/request/apsc_produced_document_for_the_i#outgoing-9138

- ‘I am of the view that Mr Spaccavento’s decision ... has been incorrectly and dishonestly made:
 - ...
 - for the purpose of hindering scrutiny of the unethical and illegal practices of senior APSC staff; and
 - in contravention of Mr Spaccavento’s legal obligations to: i) behave honestly and with integrity (s.13(1) of the Public Service Act 1999), ii) (noting Mr Spaccavento’s involvement in the preparation of the APSC produced document for the IPA and Mr Spaccavento’s affiliation with the IPA), take steps to manage his conflict of interest in making a decision on this matter (s.13(7) of the Public Service Act 1999); iii) to behave in a way that upholds the APS Values (s.13(11) of the Public Service Act 1999) and, iv) by personal example, behave in a manner that promotes the APS Values and APS Code of Conduct (s.35(3)(c) of the Public Service Act 1999).’

https://www.righttoknow.org.au/request/apsc_produced_document_for_the_i#outgoing-10861

- ‘the Office of the Australian Information Commissioner advised me that it was their view that the APSC decision maker for both of those applications, Mr Marco Spaccavento (a senior executive at the APSC), had deliberately “incorrectly interpreted the scope” of my FOI applications, presumably to cover up illegal activity engaged in by the APSC. In doing so, I consider that Mr Spaccavento has contravened his legal obligations under the Public Service Act, and is therefore not a fit and proper person to be employed in the Australian Public Service.’

- ‘I’m of the view that Ms Luck-Cameron, like Mr Spaccavento, engaged in obfuscation and deception to conceal plainly corrupt activity engaged in by the APSC. On that basis, I consider that Ms Luck-Cameron has not only breached her legal obligations under the Public Service Act, but also her legal obligations as a practising solicitor under the Legal Profession (Solicitors) Conduct Rules 2015 including by disregarding her “paramount duty [...] to the administration of justice”, by failing to “be honest [...] in all dealings in the course of legal practice” and by failing to “avoid any compromise to [her] integrity and professional independence”. Worse still, I now understand that Ms Luck-Cameron holds a position within the APSC that has oversight of the APSC’s Ethics Advisory Service which, among other functions, provides advice on the he application and interpretation of the APS Values and Code of Conduct and strategies and techniques for ethical decision making in the APS!!!’

- ‘That someone of Ms Luck-Cameron’s apparent character has oversight of the APSC’s Ethics Advisory Service is scandalous.’

https://www.righttoknow.org.au/request/apsc_produced_document_for_the_i#outgoing-11299

- ‘Accordingly, Mr Bartlett’s decision establishes that APSC employees, such as Marco Spaccavento and Emma Enzerink, used “inside information” to create the “APSC produced document for the IPA”.’
- ‘the elements of the illegality established subsection 13(10) of the Public Service Act 1999 have been made out by the actions of APSC staffers Emma Enzerink and Marco Spaccavento. Therefore, in my view, Emma Enzerink and Marco Spaccavento are corrupt and are not fit and proper persons to be employed in the APS.’
- ‘by providing evidence as to whether Ms Enzerink has destroyed Commonwealth records in the commission of an offence under the Archives Act (noting that if not destroyed, there will be at least two documents captured by my request)’
- ‘- by shedding further light on whether certain APSC staff are fit and proper persons to be employed by in the APS; and ...’

https://www.righttoknow.org.au/request/apsc_produced_document_for_the_i#outgoing-11332

- ‘Thank you for your decision, which seems to suggest that not only has Ms Emma Enzerink likely contravened subsection 13(10) of the Public Service Act 1999, Ms Emma Enzerink has also likely committed a criminal offence (under section 24 of the Archives Act 1983) by destroying or otherwise disposing of Commonwealth records.’
- ‘It sure must be ethically-challenging to be General Counsel at the most corrupt agency in the Commonwealth.’

Regards

Chris Luton

Legal Services

Australian Public Service Commission

Level 3, B Block, Treasury Building, Parkes Place West, PARKES ACT 2600
GPO Box 3176 CANBERRA ACT 2601

www: www.apsc.gov.au



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Begin forwarded message:

Date: Thursday, October 24th 2019, 02:32:10 PM +08:00 AWST
Subject: Re: Request to remove material from the Right to Know website [SEC=OFFICIAL:Sensitive, ACCESS=Legal-Privilege]
From: Ben Fairless via contact@righttoknow.org.au <contact@righttoknow.org.au>
To: Luton, Chris <chris.luton@apsc.gov.au>
Cc: LEGAL <legal@apsc.gov.au>

Hi Chris (and Legal Team),

I wouldn't mind having a chat with someone on the phone about this request to further understand your concerns.

I'm Perth based and a volunteer, so either really early in the morning or later in the evening are best for me.

Would you be free for a call tomorrow morning?

Thanks,
Ben

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

Date: Friday, October 25th 2019, 06:18:17 AM +08:00 AWST
Subject: RE: Request to remove material from the Right to Know website [SEC=OFFICIAL:Sensitive, ACCESS=Legal-Privilege]
From: LEGAL <legal@apsc.gov.au>
To: <contact@righttoknow.org.au>
Cc: LEGAL <legal@apsc.gov.au>

OFFICIAL:Sensitive

Legal privilege

Hi Ben

Sayuri (General Counsel) is out of the office today. Can we arrange a time to discuss on Monday?

Regards

Chris Luton

Legal Services



Australian Public Service Commission

Level 3, B Block, Treasury Building, Parkes Place West, PARKES ACT 2600
GPO Box 3176 CANBERRA ACT 2601



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*Date: Friday, October 25th 2019, 08:49:41 AM +08:00 AWST
Subject: RE: Request to remove material from the Right to Know website [SEC=OFFICIAL:Sensitive, ACCESS=Legal-Privilege]
From: LEGAL <legal@apsc.gov.au>
To: <contact@righttoknow.org.au>*

OFFICIAL:Sensitive

Legal privilege

My apologies – can we make that Tuesday?

Chris Luton

Legal Services

Australian Public Service Commission

Level 3, B Block, Treasury Building, Parkes Place West, PARKES ACT 2600
GPO Box 3176 CANBERRA ACT 2601



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*Date: Monday, October 28th 2019, 05:23:39 PM +08:00 AWST
Subject: Re: Request to remove material from the Right to Know website [SEC=OFFICIAL:Sensitive, ACCESS=Legal-Privilege]
From: Ben Fairless via contact@righttoknow.org.au <contact@righttoknow.org.au>
To: LEGAL <legal@apsc.gov.au>*

Hi Chris,



I'm participating in a Webinar tomorrow morning. Could we catch up tomorrow afternoon?

Thanks,
Ben

—
Ben Fairless

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

Date: Tuesday, October 29th 2019, 06:17:04 AM +08:00 AWST

Subject: RE: Request to remove material from the Right to Know website [SEC=OFFICIAL:Sensitive, ACCESS=Legal-Privilege]

From: LEGAL <legal@apsc.gov.au>

To: <contact@righttoknow.org.au>

OFFICIAL:Sensitive

Legal privilege

Hi Ben,

What's your telephone number?

I can try you between 12.15-2.30pm Canberra time – which I understand is 9.15-11.30am, it is possible I can call you at 4pm (1pm) but will depend on how the day falls out.

Otherwise tomorrow I am more flexible. Can you let me know a specific time you would be available and I'll give you a ring?

Sayuri

Sayuri Grady

General Counsel, Legal Services

Australian Public Service Commission

Level 4, B Block, Treasury Building, Parkes Place West, PARKES ACT 2600
GPO Box 3176 CANBERRA ACT 2601

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Date: Tuesday, October 29th 2019, 08:29:26 AM +08:00 AWST

Subject: Re: Request to remove material from the Right to Know website [SEC=OFFICIAL:Sensitive, ACCESS=Legal-Privilege]

From: Ben Fairless via contact@righttoknow.org.au <contact@righttoknow.org.au>

To: LEGAL <legal@apsc.gov.au>

Hi Sayuri,

Thanks for that. I'm not free until about 10:30am today. Happy for a call between 10:30am and 11:30am (Perth Time) if you've got the time today.

My number is [REDACTED]. Just so we are clear, I'm a volunteer with Right to Know, so I'm not always available on p [REDACTED] providing my number to you for the limited purpose of discussing your concerns on this issue at a pre-agreed time.

Thanks,
Ben

—
Ben Fairless

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Date: Tuesday, October 29th 2019, 08:33:45 AM +08:00 AWST

Subject: RE: Request to remove material from the Right to Know website [SEC=OFFICIAL:Sensitive, ACCESS=Legal-Privilege]

From: LEGAL <legal@apsc.gov.au>

To: <contact@righttoknow.org.au>

OFFICIAL:Sensitive

Legal privilege

Hi Ben,

Unfortunately I'm in a meeting at that time today.

How are you placed for tomorrow?

Sayuri

Sayuri Grady

General Counsel, Legal Services

Australian Public Service Commission

Level 4, B Block, Treasury Building, Parkes Place West, PARKES ACT 2600
GPO Box 3176 CANBERRA ACT 2601

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Date: Tuesday, October 29th 2019, 09:51:34 AM +08:00 AWST
Subject: Re: Request to remove material from the Right to Know website [SEC=OFFICIAL:Sensitive, ACCESS=Legal-Privilege]
From: Ben Fairless via contact@righttoknow.org.au <contact@righttoknow.org.au>
To: LEGAL <legal@apsc.gov.au>

Hi Sayuri,

Would have to be first or last thing tomorrow. I'm free for the rest of today however.

Thanks
Ben

Ben Fairless
[OpenAustralia Foundation](http://OpenAustralia.org)
openaustralia | planningalerts | electionleaflets | righttoknow | theyvoteforyou | morph

11/03/2020

Date: Wednesday, October 30th 2019, 07:13:03 AM +08:00 AWST

Subject: RE: Request to remove material from the Right to Know website [SEC=OFFICIAL:Sensitive, ACCESS=Legal-Privilege]

From: LEGAL <legal@apsc.gov.au>

To: <contact@righttoknow.org.au>

OFFICIAL:Sensitive

Legal privilege

Dear Ben,

Thanks for making the time to talk to Chris and I yesterday.

As discussed, you might like to review the following post on your website – we are not specifically asking you to take these down, but provide them to you as you requested:

- https://www.righttoknow.org.au/request/john_lloyd_and_peter_woolcott#incoming-15315 – post-dated 23 August 2019

I look forward to hearing from you following our discussion.

Please feel free to give me a call if required.

Sayuri

Sayuri Grady

General Counsel, Legal Services

Australian Public Service Commission

Level 4, B Block, Treasury Building, Parkes Place West, PARKES ACT 2600
GPO Box 3176 CANBERRA ACT 2601

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*Date: Wednesday, October 30th 2019, 12:55:44 PM +08:00 AWST
Subject: Additional query re redactions [SEC=OFFICIAL:Sensitive, ACCESS=Legal-Privilege]
From: Grady, Sayuri <sayuri.grady@apsc.gov.au>
To: <contact@righttoknow.org.au>*

OFFICIAL:Sensitive

Legal privilege

Dear Ben,

Thanks for making those changes – we have viewed them.

Just letting you know that one post includes ‘Emma Enezerink’ (spelling error) still in it, but as it is so close to the correct spelling, would you be able to remove it as well?

https://www.righttoknow.org.au/request/apsc_produced_document_for_the_i#outgoing-11299

Sayuri

Sayuri Grady

General Counsel, Legal Services

Australian Public Service Commission

Level 4, B Block, Treasury Building, Parkes Place West, PARKES ACT 2600
GPO Box 3176 CANBERRA ACT 2601

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Date: Wednesday, October 30th 2019, 12:58:59 PM +08:00 AWST

Subject: Re: Request to remove material from the Right to Know website [SEC=OFFICIAL:Sensitive, ACCESS=Legal-Privilege]

From: Ben Fairless via contact@righttoknow.org.au <contact@righttoknow.org.au>

To: LEGAL <legal@apsc.gov.au>

Hi Sayuri,

Thanks for the call yesterday, it was appreciated.

In order to resolve the concerns raised, we agree to hide the below names from the request "APSC produced document for the IPA":

- Marco Spaccavento
- Emma Enzerink
- Suzannah Luck-Cameron

The names should now appear as "[Name removed at request of APSC]". Please let me know if this is not the case. I have also posted an annotation on the request, which you can find here: https://www.righttoknow.org.au/request/apsc_produced_document_for_the_i#comment-2602

We are making no decision or admission that the content is defamatory. If your team have any questions, they are welcome to reach out to us via contact@righttoknow.org.au. I ask that you don't pass on my mobile phone number to the employees in question as I am just a volunteer.

Warm Regards,
Ben Fairless

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

Date: Wednesday, October 30th 2019, 01:05:38 PM +08:00 AWST
Subject: RE: Request to remove material from the Right to Know website [SEC=OFFICIAL:Sensitive, ACCESS=Legal-Privilege]
From: LEGAL <legal@apsc.gov.au>
To: <contact@righttoknow.org.au>

OFFICIAL:Sensitive

Legal privilege

Dear Ben,

Thank you and noted.

Just in case you didn't see my earlier email:

Just letting you know that one post includes 'Emma Enezerink' (spelling error) still in it, but as it is so close to the correct spelling, would you be able to remove it as well?

https://www.righttoknow.org.au/request/apsc_produced_document_for_the_i#outgoing-11299

Sayuri

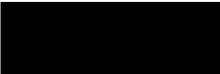
Sayuri Grady

General Counsel, Legal Services

Australian Public Service Commission

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Date: Wednesday, October 30th 2019, 01:09:34 PM +08:00 AWST
Subject: Re: Request to remove material from the Right to Know website [SEC=OFFICIAL:Sensitive, ACCESS=Legal-Privilege]
From: Ben Fairless via contact@righttoknow.org.au <contact@righttoknow.org.au>
To: LEGAL <legal@apsc.gov.au>

Hi Sayuri,

Thanks for flagging that. The filtering is very specific. I've added another rule, can you let me know if you can see it now?

If you could let me know if the 3 staff members are happy with the resolution, that would also be appreciated.

Thanks,
Ben

Ben Fairless
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Date: Wednesday, October 30th 2019, 01:22:08 PM +08:00 AWST
Subject: RE: Request to remove material from the Right to Know website [SEC=OFFICIAL:Sensitive, ACCESS=Legal-Privilege]
From: LEGAL <legal@apsc.gov.au>
To: <contact@righttoknow.org.au>

OFFICIAL:Sensitive

Legal privilege

Dear Ben,

Yes it is removed now – thanks.

I will get back to you on the other issue.

Sayuri

Sayuri Grady

Australian Public Service Commission

Level 4, B Block, Treasury Building, Parkes Place West, PARKES ACT 2600
GPO Box 3176 CANBERRA ACT 2601

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Date: Wednesday, October 30th 2019, 01:32:03 PM +08:00 AWST
Subject: RE: Request to remove material from the Right to Know website [SEC=OFFICIAL:Sensitive, ACCESS=Legal-Privilege]
From: LEGAL <legal@apsc.gov.au>
To: <contact@righttoknow.org.au>

OFFICIAL:Sensitive

Legal privilege

Dear Ben,

We still request that you remove the first names as well. This is because, as such a small organisation, it is still very easy to connect a person's first name and the APSC through a google search to find the full name of the person.

Sayuri

Sayuri Grady

General Counsel, Legal Services



Australian Public Service Commission

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Date: Thursday, October 31st 2019, 06:40:20 AM +08:00 AWST
Subject: FW: Request to remove material from the Right to Know website [SEC=OFFICIAL:Sensitive, ACCESS=Legal-Privilege]
From: LEGAL <legal@apsc.gov.au>
To: <contact@righttoknow.org.au>

OFFICIAL:Sensitive

Legal privilege

Dear Ben,

I've had a look and thank you for removing those first names as well. Just letting you know that 'Emma' still appears throughout the page 9 times, are you able to remove that as well.

Sayuri

Sayuri Grady

General Counsel, Legal Services



Australian Public Service Commission

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Date: Monday, November 4th 2019, 06:33:45 PM +08:00 AWST
Subject: Re: Request to remove material from the Right to Know website [SEC=OFFICIAL:Sensitive, ACCESS=Legal-Privilege]
From: Ben Fairless via contact@righttoknow.org.au <contact@righttoknow.org.au>
To: LEGAL <legal@apsc.gov.au>

Hi Sayuri,

Just closing the loop on this via email - This should be all sorted now but let me know if there are any questions.

Thanks,
Ben

Ben Fairless
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Date: Tuesday, November 5th 2019, 08:38:58 AM +08:00 AWST
Subject: RE: Request to remove material from the Right to Know website [SEC=OFFICIAL:Sensitive, ACCESS=Legal-Privilege]
From: LEGAL <legal@apsc.gov.au>
To: <contact@righttoknow.org.au>

OFFICIAL:Sensitive

Legal privilege

Dear Ben,



Apologies, we've just found another couple of entries:

- https://www.righttoknow.org.au/request/apsc_produced_document_for_the_i#outgoing-11299 - shows 'Enezerink' on the above post, 6th paragraph, 4th line
- https://www.righttoknow.org.au/request/apsc_produced_document_for_the_i#outgoing-9138 - shows 'Sppaccavento' paragraph numbered [6], 6th line

Are you able to remove these as well?

Sayuri

Sayuri Grady

General Counsel, Legal Services

Australian Public Service Commission

Level 4, B Block, Treasury Building, Parkes Place West, PARKES ACT 2600
GPO Box 3176 CANBERRA ACT 2601

Please note I do not work Mondays

 w: www.apsc.gov.au



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Date: Thursday, November 7th 2019, 01:54:08 PM +08:00 AWST
Subject: Re: Request to remove material from the Right to Know website [SEC=OFFICIAL:Sensitive, ACCESS=Legal-Privilege]
From: Ben Fairless via contact@righttoknow.org.au <contact@righttoknow.org.au>
To: LEGAL <legal@apsc.gov.au>

Hi Sayuri,



Thanks for your call earlier today and just now. I've gone ahead and hidden the spelling variations in line with our previous conversations.

As I mentioned on the phone, we've received a request from the applicant for a copy of the correspondence we've had with the APSC in relation to this request.

Further to our call just now, could you confirm that you have no objections with us providing the correspondence to the applicant, with direct telephone numbers removed?

Thanks,
Ben

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

Date: Friday, November 8th 2019, 12:05:34 PM +08:00 AWST
Subject: RE: Request to remove material from the Right to Know website [SEC=OFFICIAL:Sensitive, ACCESS=Legal-Privilege]
From: LEGAL <legal@apsc.gov.au>
To: <contact@righttoknow.org.au>

OFFICIAL:Sensitive

Legal privilege

Dear Ben,

I confirm that the Commission has no concerns with you providing the correspondence between RtK and the Commission regarding the request to remove certain names from the website, removing direct telephone numbers.

Sayuri

Sayuri Grady

General Counsel, Legal Services

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