



File: T&F23/0354
A2857399

5 May 2023

The Hon. David Speirs
Leader of the Opposition
Parliament House
North Terrace
ADELAIDE SA 5000

State Administration Centre
200 Victoria Square
Adelaide SA 5000
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Sent via email: leaderoftheopposition@parliament.sa.gov.au

Dear Mr Speirs

Freedom of Information – DTF Staff Misconduct

I refer to your application under the *Freedom of Information Act 1991* (FOI Act), received by the Department of Treasury and Finance (DTF) on 7 March 2023.

Your application specifically requested:

'Documents as defined under Part 1 Section 4 Freedom of Information Act 1991 (SA), pertaining to investigations into allegations of Departmental staff misconduct. Date Range 01/12/2022 to 05/03/2023'

Under the Act, an agency has 30 days to respond to a freedom of information request. As DTF did not respond to your request within the time frame required, the department is deemed to have refused you access to all documents relevant to your application. However, I have determined to process the request as if the statutory time frame had been met.

The purpose of this letter is to advise you of my determination.

A total of 90 documents were identified as answering the terms of your application and I have determined as follows:

- I grant you access in full to 3 documents, copies of which are enclosed,
- I grant you access in part to 5 documents, copies of which are enclosed, and
- I refuse you access to 82 documents.

Please refer to the attached schedule that describes each document and sets out my determination and reasons in summary form.

Documents released in full

Documents 9, 13 and 17.

Documents released in part

Documents 45-46, 49-50, and 63

Under clause 6(1) of Schedule 1 to the FOI Act, a document is exempt if its disclosure would involve the 'unreasonable disclosure of information concerning the personal affairs of any person'. These documents identify the individual named in the complaint. Whilst the identity of individual is known to you, there is no provision under the FOI Act that permits DTF to set conditions on the publication of released documents. DTF holds the view that information released, is information released to the world at large.

Furthermore, information contained in the documents relates to the individual's employment records which falls within the definition of personal affairs. Consequently, I have determined to exempt information relating the individual's identity and employment record pursuant to clause 6(1) of Schedule 1 to the FOI Act.

Documents refused in full

Documents 1-8, 10-12, 14-16, 18-21, 24-44 and 65-90.

These documents relate to matters concerning DTF staff that were subject to an investigation by DTF into allegations of misconduct. Clause 6(2) of schedule 1 to the FOI Act states that a document is exempt from disclosure if it contains "...*allegations or suggestions of criminal or improper conduct of any person (living or dead) the truth of which has not been established by a judicial process and the disclosure of which would be unreasonable.*" Since the allegations have not been established by a judicial process, it would be unreasonable to disclose these documents. I therefore determine to refuse access in full pursuant to clause 6(2) of Schedule 1 to the FOI Act.

Documents 47-48, 51-62 and 64.

These documents contain information relating to the employment records of a third party. Under clause 6(1) of Schedule 1 of the FOI Act, a document is exempt if its disclosure would involve the 'unreasonable disclosure of information concerning the personal affairs of any person'. In my view, it would be unreasonable to disclose this information and I have therefore determined to refuse access in full pursuant to clause 6(1) of Schedule 1 to the FOI Act.

Documents 54 and 55.

These documents also contain matter that relate to advice and recommendations prepared by the People and Performance Branch of DTF for the decision-making of the Chief Services Officer. In considering the public interest component of this exemption, I have sought to balance the need for transparency and openness of government, with the importance of ensuring that public servants are able to perform their duties and provide advice without inhibiting frankness and candour. Disclosure of these documents would affect the public's confidence in the agency's ability to confidentially investigate complaints or allegations of misconduct. I consider that, on the balance, disclosure of the Document would be contrary to the public interest. I therefore refuse access in full pursuant to clause 9(1)(a)(ii) of Schedule 1 to the FOI Act.

Documents 22 and 23.

These documents contain information that has been obtained in the course of carrying out functions in relation to the operation of the *Return to Work Act 2014* (RTW Act). Clause 12(1)

of Schedule 1 of the FOI Act states that a document is exempt from disclosure if 'it contains matter the disclosure of which would constitute an offence against an Act'. Since disclosure of both documents would constitute an offence against section 185 or the RTW Act, I have determined to refuse access pursuant to clause 12(1) of Schedule 1 to the FOI Act.

Exemptions

Clause 6 – Documents affecting personal affairs

- (1) *A document is an exempt document if it contains matter the disclosure of which would involve the unreasonable disclosure of information concerning the personal affairs of any person (living or dead).*
- (2) *A document is an exempt document if it contains allegations or suggestions of criminal or other improper conduct on the part of a person (living or dead) the truth of which has not been established by judicial process and the disclosure of which would be unreasonable.*

Clause 9 – Internal working documents

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

Clause 12 – Secrecy Provisions

- (1) *A document is an exempt document if it contains matter the disclosure of which would constitute an offence against an Act.*

Section 185 of Return to Work Act 2014

- (1) *A person must not disclose information (except as permitted by subsection (3)) if—*
 - (a) *the person obtained the information in the course of carrying out functions in, or in relation to, the administration, operation or enforcement of this Act; and*
 - (b) *the information is—*
 - (i) *about commercial or trading operations; or*
 - (ii) *about the physical or mental condition, or the personal circumstances or affairs, of a worker or other person; or*
 - (iii) *information provided in a return or in response to a request for information under this Act.*

Maximum penalty: \$10 000.

Please note, in compliance with Premier and Cabinet Circular PC045 - *Disclosure Logs for Non-Personal Information Released through Freedom of Information (PC045)*, DTF is required to publish a log of all non-personal information released under the *Freedom of Information Act 1991*.

In accordance with this Circular, any non-personal information determined for release as part of this application, may be published on the DTF website. A copy of PC045 can be found at the following address: <https://www.dpc.sa.gov.au/resources-and-publications/premier-and-cabinet-circulars>. Please visit the website for further information.

Appeal Rights

If you are aggrieved with this determination, you have a right to apply for internal review under subsection 29(1) of the FOI Act. Pursuant to subsection 29(2), your application must:

- be in writing,
- be accompanied by the application fee of \$39,
- be addressed to the principal officer, and
- be lodged at an office of DTF or emailed to freedomofinformation2@sa.gov.au within 30 days after the day on which you receive this letter or within such further time as the principal officer may allow.

If you require any further information, please phone Inthira Stocker on (08) 8429 3497.

Yours sincerely



Tonia Roache
ACCREDITED FREEDOM OF INFORMATION OFFICER

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Schedule of Documents

T&F23/0354 - Hon. David Speirs "Documents as defined under Part 1 Section 4 Freedom of Information Act 1991 (SA), pertaining to investigations into allegations of Departmental staff misconduct. Date Range 01/12/2022 to 05/03/2023"

Doc. No.	Date	Description of Document	# of pages	Determination Recommendation	Exemption Clause
1	21/11/2022 at 8:37am	Email	1	Refused in full	6(2) - Contains allegations/suggestions not established by judicial process and disclosure would be unreasonable
2	25/11/2022 at 12:46pm	Email	3	Refused in full	6(2) - Contains allegations/suggestions not established by judicial process and disclosure would be unreasonable
3	25/11/2022 at 12:48pm	Email	2	Refused in full	6(2) - Contains allegations/suggestions not established by judicial process and disclosure would be unreasonable
4	28/11/2022 at 12:39pm	Email	4	Refused in full	6(2) - Contains allegations/suggestions not established by judicial process and disclosure would be unreasonable
5	undated	Gov Online training List	1	Refused in full	6(2) - Contains allegations/suggestions not established by judicial process and disclosure would be unreasonable

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Doc. No.	Date	Description of Document	# of pages	Determination Recommendation	Exemption Clause
6	29/11/2022 at 1:09pm	Email	2	Refused in full	6(2) - Contains allegations/suggestions not established by judicial process and disclosure would be unreasonable
7	29/11/2022 at 1:40pm	Email	4	Refused in full	6(2) - Contains allegations/suggestions not established by judicial process and disclosure would be unreasonable
8	29/11/2022 at 2:41pm	Email	5	Refused in full	6(2) - Contains allegations/suggestions not established by judicial process and disclosure would be unreasonable
		Attachment to document 8 - duplicate of document 7	4	Refused in full	6(2) - Contains allegations/suggestions not established by judicial process and disclosure would be unreasonable
		Attachment to document 8 - duplicate of document 5	1	Refused in full	6(2) - Contains allegations/suggestions not established by judicial process and disclosure would be unreasonable
9		Attachment to document 8 - WIS-SSSA Confidentiality procedure v8	4	Released in full	

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Doc. No.	Date	Description of Document	# of pages	Determination Recommendation	Exemption Clause
10	29/11/2022 at 2:24pm	Attachment to document 8 - Email	2	Refused in full	6(2) - Contains allegations/suggestions not established by judicial process and disclosure would be unreasonable
		Attachment to document 10 - duplicate of document 1	1	Refused in full	6(2) - Contains allegations/suggestions not established by judicial process and disclosure would be unreasonable
11	01/12/2022 at 10:43am	Email	3	Refused in full	6(2) - Contains allegations/suggestions not established by judicial process and disclosure would be unreasonable
12	25/11/2022 at 12:46pm	Attachment to document 11 - Email	3	Refused in full	6(2) - Contains allegations/suggestions not established by judicial process and disclosure would be unreasonable
13	undated	Extract - Section 55 of Public Sector Act 2009	1	Released in full	
14	6/12/2022	Letter	4	Refused in full	6(2) - Contains allegations/suggestions not established by judicial process and disclosure would be unreasonable

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Doc. No.	Date	Description of Document	# of pages	Determination Recommendation	Exemption Clause
15	6/12/2022	Meeting Request	2	Refused in full	6(2) - Contains allegations/suggestions not established by judicial process and disclosure would be unreasonable
16	6/12/2022	Minute	2	Refused in full	6(2) - Contains allegations/suggestions not established by judicial process and disclosure would be unreasonable
17		Code of Ethics for the South Asutralian Publilc Sector	12	Released in full	
18	08/12/2022 1:20pm	Email	9	Refused in full	6(2) - Contains allegations/suggestions not established by judicial process and disclosure would be unreasonable
19	8/12/2022 at 2:28pm	Email	1	Refused in full	6(2) - Contains allegations/suggestions not established by judicial process and disclosure would be unreasonable
		Attachment to document 19 - duplicate of document 14		Refused in full	6(2) - Contains allegations/suggestions not established by judicial process and disclosure would be unreasonable

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Doc. No.	Date	Description of Document	# of pages	Determination Recommendation	Exemption Clause
20	8/12/2022	File note	2	Refused in full	6(2) - Contains allegations/suggestions not established by judicial process and disclosure would be unreasonable
21	17/12/2022 at 11:11am	Email	3	Refused in full	6(2) - Contains allegations/suggestions not established by judicial process and disclosure would be unreasonable
22		Attachment to document 21 - Summary of case conference	2	Refused in full	12(1) - Disclosure would constitute an offence against an Act
23	13/11/2022 at 12:27pm	Attachment to document 21 - Email	1	Refused in full	12(1) - Disclosure would constitute an offence against an Act
24	05/01/2023 at 9:57am	Email	4	Refused in full	6(2) - Contains allegations/suggestions not established by judicial process and disclosure would be unreasonable
25	10/01/2023 at 5:05pm	Email	4	Refused in full	6(2) - Contains allegations/suggestions not established by judicial process and disclosure would be unreasonable

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Doc. No.	Date	Description of Document	# of pages	Determination Recommendation	Exemption Clause
26	10/01/2023 at 12:09pm	Email	4	Refused in full	6(2) - Contains allegations/suggestions not established by judicial process and disclosure would be unreasonable
27	10/01/2023 12:02pm	Attachment to document 26 - Email	5	Refused in full	6(2) - Contains allegations/suggestions not established by judicial process and disclosure would be unreasonable
28	10/01/2023 at 12:48pm	Email	1	Refused in full	6(2) - Contains allegations/suggestions not established by judicial process and disclosure would be unreasonable
29	16/01/2023 at 9:52am	Email	3	Refused in full	6(2) - Contains allegations/suggestions not established by judicial process and disclosure would be unreasonable
30	23/01/2023 at 11:35am	Email	8	Refused in full	6(2) - Contains allegations/suggestions not established by judicial process and disclosure would be unreasonable

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Doc. No.	Date	Description of Document	# of pages	Determination Recommendation	Exemption Clause
31	25/01/2023 at 9:38am	Email	4	Refused in full	6(2) - Contains allegations/suggestions not established by judicial process and disclosure would be unreasonable
32	3/02/2023	Minute	4	Refused in full	6(2) - Contains allegations/suggestions not established by judicial process and disclosure would be unreasonable
33	3/02/2023	Letter	3	Refused in full	6(2) - Contains allegations/suggestions not established by judicial process and disclosure would be unreasonable
34	06/02/2023 at 2:54pm	Email	1	Refused in full	6(2) - Contains allegations/suggestions not established by judicial process and disclosure would be unreasonable
	3/02/2023	Attachment to document 34 - duplicate of document 33	3	Refused in full	6(2) - Contains allegations/suggestions not established by judicial process and disclosure would be unreasonable

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Doc. No.	Date	Description of Document	# of pages	Determination Recommendation	Exemption Clause
35	10/01/2023 at 3:50pm	Attachment to document 34 - Email	3	Refused in full	6(2) - Contains allegations/suggestions not established by judicial process and disclosure would be unreasonable
	25/11/2022 at 12:48pm	Attachment to document 34 - duplicate of document 4		Refused in full	6(2) - Contains allegations/suggestions not established by judicial process and disclosure would be unreasonable
36	15/02/2023 at 1:47pm	Email	2	Refused in full	6(2) - Contains allegations/suggestions not established by judicial process and disclosure would be unreasonable
37	14/02/2023 at 1:19pm	Email	6	Refused in full	6(2) - Contains allegations/suggestions not established by judicial process and disclosure would be unreasonable
38	10/02/2023	Letter	2	Refused in full	6(2) - Contains allegations/suggestions not established by judicial process and disclosure would be unreasonable

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Doc. No.	Date	Description of Document	# of pages	Determination Recommendation	Exemption Clause
39	17/02/2023 at 11:42am	Email	3	Refused in full	6(2) - Contains allegations/suggestions not established by judicial process and disclosure would be unreasonable
40	22/02/2023 at 4:44pm	Email	2	Refused in full	6(2) - Contains allegations/suggestions not established by judicial process and disclosure would be unreasonable
41	22/02/2023	Attachment to document 40 - Letter	2	Refused in full	6(2) - Contains allegations/suggestions not established by judicial process and disclosure would be unreasonable
42	23/02/2023 at 2:08pm	Email	10	Refused in full	6(2) - Contains allegations/suggestions not established by judicial process and disclosure would be unreasonable
43	28/02/2023 at 3:02pm	Email	2	Refused in full	6(2) - Contains allegations/suggestions not established by judicial process and disclosure would be unreasonable

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Doc. No.	Date	Description of Document	# of pages	Determination Recommendation	Exemption Clause
44	17/11/2023 at 4:45pm	Email	1	Refused in full	6(2) - Contains allegations/suggestions not established by judicial process and disclosure would be unreasonable
45	28/12/2022 at 11:am	email	3	Released in part	6(1) - Unreasonable disclosure of personal affairs
46	undated	Attachment to document 45	1	Released in part	6(1) - Unreasonable disclosure of personal affairs
47	04/10/2022 at 2:45pm	Attachment to document 45 - Email	14	Refused in full	6(1) - Unreasonable disclosure of personal affairs
48	27/09/2022 at 2:53pm	Attachment to document 45 - Email	1	Refused in full	6(1) - Unreasonable disclosure of personal affairs
		Attachment to document 48 - duplicate of document 17		Released in full	
49	undated	Attachment to document 45	1	Released in part	6(1) - Unreasonable disclosure of personal affairs
50	undated	Attachment to document 45	1	Released in part	6(1) - Unreasonable disclosure of personal affairs
51		Draft Letter	4	Refused in full	6(1) - Unreasonable disclosure of personal affairs
52		Minute	2	Refused in full	6(1) - Unreasonable disclosure of personal affairs
53	06/01/2023 at 11:53am	Email	1	Refused in full	6(1) - Unreasonable disclosure of personal affairs

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Doc. No.	Date	Description of Document	# of pages	Determination Recommendation	Exemption Clause
54	6/01/2023 at 11am	File note	1	Refused in full	6(1) - Unreasonable disclosure of personal affairs 9(1)(a)(ii) - Contains matter relating to consultation or deliberation for decision-making of the Government, a Minister or an agency & contrary to public interest
55	05/01/2023 at 10:15am	File note	1	Refused in full	6(1) - Unreasonable disclosure of personal affairs 9(1)(a)(ii) - Contains matter relating to consultation or deliberation for decision-making of the Government, a Minister or an agency & contrary to public interest
56	10/01/2023	Letter	3	Refused in full	6(1) - Unreasonable disclosure of personal affairs
57	11/01/2023 at 2:23pm	Email	1	Refused in full	6(1) - Unreasonable disclosure of personal affairs
		Attachment to document 58 - duplicate of document 57	3	Refused in full	6(1) - Unreasonable disclosure of personal affairs
58		Attachment to document 58 - Summary of conversation	1	Refused in full	6(1) - Unreasonable disclosure of personal affairs

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Doc. No.	Date	Description of Document	# of pages	Determination Recommendation	Exemption Clause
		Attachment to document 58 - duplicate of document 49		Refused in full	6(1) - Unreasonable disclosure of personal affairs
		Attachment to document 58 - duplicate of document 51		Refused in full	6(1) - Unreasonable disclosure of personal affairs
		Attachment to document 58 - duplicate of document 50		Refused in full	6(1) - Unreasonable disclosure of personal affairs
		Attachment to document 58 - duplicate of document 47		Refused in full	6(1) - Unreasonable disclosure of personal affairs
59		Attachment to document 58 - Instagram post		Refused in full	6(1) - Unreasonable disclosure of personal affairs
60	16/01/2023 at 1:44pm	Email	2	Refused in full	6(1) - Unreasonable disclosure of personal affairs
61	19/01/2023 at 9:42am	Email	4	Refused in full	6(1) - Unreasonable disclosure of personal affairs
62	27/09/2022 at 11:30am	Email	1	Refused in full	6(1) - Unreasonable disclosure of personal affairs
63	22/12/2022 5:23pm	Email	1	Released in part	6(1) - Unreasonable disclosure of personal affairs
64		Trainee Induction checklist	2	Refused in full	6(1) - Unreasonable disclosure of personal affairs

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Doc. No.	Date	Description of Document	# of pages	Determination Recommendation	Exemption Clause
65	21/12/2022	Recruitment Folder audit	3	Refused in full	6(2) - Contains allegations/suggestions not established by judicial process and disclosure would be unreasonable
66	11/01/2023 at 3:54pm	Email	1	Refused in full	6(2) - Contains allegations/suggestions not established by judicial process and disclosure would be unreasonable
67	12/01/2023 at 2:02pm	Email	2	Refused in full	6(2) - Contains allegations/suggestions not established by judicial process and disclosure would be unreasonable
68	12/01/2023 at 12:19pm	Email	4	Refused in full	6(2) - Contains allegations/suggestions not established by judicial process and disclosure would be unreasonable
69	12/01/2023 at 11:32am	Email	3	Refused in full	6(2) - Contains allegations/suggestions not established by judicial process and disclosure would be unreasonable

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Doc. No.	Date	Description of Document	# of pages	Determination Recommendation	Exemption Clause
70	12/01/2023 11:21am	Email	2	Refused in full	6(2) - Contains allegations/suggestions not established by judicial process and disclosure would be unreasonable
		Attachment to document 70 - duplicate of document 67	3	Refused in full	6(2) - Contains allegations/suggestions not established by judicial process and disclosure would be unreasonable
71	16/01/2023 at 4:42pm	Email	2	Refused in full	6(2) - Contains allegations/suggestions not established by judicial process and disclosure would be unreasonable
72	16/01/2023 at 4:47pm	Email	2	Refused in full	6(2) - Contains allegations/suggestions not established by judicial process and disclosure would be unreasonable
73	17/01/2023	Letter	4	Refused in full	6(2) - Contains allegations/suggestions not established by judicial process and disclosure would be unreasonable

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Doc. No.	Date	Description of Document	# of pages	Determination Recommendation	Exemption Clause
74	17/01/2023	Minute	3	Refused in full	6(2) - Contains allegations/suggestions not established by judicial process and disclosure would be unreasonable
75	24/01/2023 at 10:21am	Email	2	Refused in full	6(2) - Contains allegations/suggestions not established by judicial process and disclosure would be unreasonable
76		Attachment to document 75 - Letter of response	1	Refused in full	6(2) - Contains allegations/suggestions not established by judicial process and disclosure would be unreasonable
77	30/01/2023	Letter	3	Refused in full	6(2) - Contains allegations/suggestions not established by judicial process and disclosure would be unreasonable
78	30/01/2023	Minute	3	Refused in full	6(2) - Contains allegations/suggestions not established by judicial process and disclosure would be unreasonable

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Doc. No.	Date	Description of Document	# of pages	Determination Recommendation	Exemption Clause
79	31/01/2023	Screenshot - TEAMS message	1	Refused in full	6(2) - Contains allegations/suggestions not established by judicial process and disclosure would be unreasonable
80	31/01/2023 at 2:23pm	Email	1	Refused in full	6(2) - Contains allegations/suggestions not established by judicial process and disclosure would be unreasonable
81	07/02/2023 at 5:20pm	Email	2	Refused in full	6(2) - Contains allegations/suggestions not established by judicial process and disclosure would be unreasonable
82	7/02/2023	Attachement to document 81 - Letter of response	1	Refused in full	6(2) - Contains allegations/suggestions not established by judicial process and disclosure would be unreasonable
83	09/02/2023 at 8:27am	Email	3	Refused in full	6(2) - Contains allegations/suggestions not established by judicial process and disclosure would be unreasonable

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Doc. No.	Date	Description of Document	# of pages	Determination Recommendation	Exemption Clause
84	16/02/2023	Letter	2	Refused in full	6(2) - Contains allegations/suggestions not established by judicial process and disclosure would be unreasonable
85	16/02/2023 at 5:30pm	Email	2	Refused in full	6(2) - Contains allegations/suggestions not established by judicial process and disclosure would be unreasonable
86	16/02/2023 at 2:22pm	Email	1	Refused in full	6(2) - Contains allegations/suggestions not established by judicial process and disclosure would be unreasonable
	16/02/2023	Attachment to document 86 - duplicate of document 84	2	Refused in full	6(2) - Contains allegations/suggestions not established by judicial process and disclosure would be unreasonable
87	undated	Audit Log - Attachment A	3	Refused in full	6(2) - Contains allegations/suggestions not established by judicial process and disclosure would be unreasonable

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Doc. No.	Date	Description of Document	# of pages	Determination Recommendation	Exemption Clause
88	undated	Audit Log - Attachment B	1	Refused in full	6(2) - Contains allegations/suggestions not established by judicial process and disclosure would be unreasonable
89	undated	Audit Log - Attachment C		Refused in full	6(2) - Contains allegations/suggestions not established by judicial process and disclosure would be unreasonable
90	undated	Attachment 5 - Training Records	1	Refused in full	6(2) - Contains allegations/suggestions not established by judicial process and disclosure would be unreasonable

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CONFIDENTIALITY PROCEDURE

Work Injury Services
Shared Services SA
Monday, 21 February 2022
Version: 8.0f
Number: WIS03

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Document Control

Version and Status	Version	8.0f
	Status	APPROVED
File Name and Location	File Name	Procedure 3 - Confidentiality v8.0f
	Location	O:\Corporate\CEBC\6. Client Services\SSSA Procedures\Work Injury Services
Assigned Review Period	Review Cycle	2 years
	Next Review Date	21 February 2024

Revision History

Version	Date	Summary of Change	Author
6.0f	18/12/2017	Date of issue	Michelle Sparham
	29/10/2019	Rebranding	
7.0f	25/02/2020	Procedure Update	Michelle Sparham
	30/10/2020	Updated template with new branding/ICS	
8.0f	21/02/2022	Procedure Update	Michelle Sparham

Document Review

Title	Name	Date Signed	Signature
Quality Assurance & Reporting Officer	Michelle Sparham	21/02/2022	Electronically Issued

Document Approval

Title	Name	Date Signed	Signature
Manager, Work Injury Services	Stephen Park	21/02/2022	Electronically Issued

1. Purpose

To ensure the personal information that is collected about injured workers is kept confidential pursuant to *Section 185* of the *Return to Work Act 2014* and any other applicable legislation.

2. Scope

This procedure will ensure compliance with the relevant provisions of the *Return to Work Act 2014* and any other applicable legislation with respect to the disclosure of personal information including, but without limitation:

- about the physical or mental condition of a person;
- about the personal circumstances of a person;
- about the commercial or trading operations of an entity;
- provided in response to requests from third parties for information made pursuant to the *Return to Work Act 2014* and any other applicable legislation.

3. Definitions

The confidentiality provisions are contained in *Section 185(1)* which states that:

- 1) *A person must not disclose information (except as permitted by subsection (2)) if—*
 - (a) *the person obtained the information in the course of carrying out functions in, or related to, the administration, operation or enforcement of this Act; and*
 - (b) *the information is—*
 - (i) *about commercial or trading operations; or*
 - (ii) *about the physical or mental condition, or the personal circumstances or affairs, of a worker or other person; or*
 - (iii) *information provided in a return or in response to a request for information under this Act.*

This provision binds claims staff and return to work consultants, representatives, employers, workers, doctors and any person who may have obtained information while involved in any activity related to the administration, operation or enforcement of the *Return to Work Act 2014*.

4. Policy Details

Code of Ethics for the South Australian Public Sector – **Refer to Appendix 37.**

5. Procedure Details

Staff at Work Injury Services (WIS) will endeavour to ensure all personal information about injured workers is accurate, complete and current.

An authority to exchange information form is requested from a claimant (where applicable) so staff at WIS are authorised to obtain information from medical experts in relation to the workers compensable injury/condition. An Authority is included in the Injury Management Kit – **Refer to Appendix 6** for copies of documents that may be included in the kit.

If a worker requests access to their file documents / materials pursuant to *Section 180* of the *Return to Work Act 2014*, the Claims Case Manager or Claims Management Officer will provide the relevant documents / materials to the worker, and / or make the documents / materials available for inspection within 45 days of the request.

The worker is entitled to receive copies of all documents / materials, with the exception of documents / materials covered by legal professional privilege, documents / materials relevant to an investigation of dishonesty or documents / materials that could reasonably be expected to endanger the life or safety of any person, in the possession of Work Injury Services.

If a worker is aggrieved by the non-provision of documents / materials, an application may be made to the Ombudsman within 30 days who will review the decision and either confirm or vary the decision.

If a worker is mistakenly provided documents / materials to which they were not entitled, the worker must return the documents / materials within a reasonable time or face a possible fine of \$2,500.

6. Responsibilities

All staff at WIS are in a position of trust, requiring standards of ethical behaviour that reflect community expectations and legislative requirements.

7. References

- Authority to Exchange Information – **Refer to Appendix 6**. This is available on the Work Injury Services main computer drive in the following directory:
<Q:\INJURY MANAGEMENT\Forms\ Authority to Exchange Information>.
- Your Road to Recovery Booklet – **Refer to Appendix 6**.
- Code of Ethics for the South Australian Public Sector – **Refer to Appendix 37**.

8. Contact

For further information, contact Steve Park.

55—Disciplinary action

(1) A public sector agency may—

- (a) reprimand an employee of the agency; or
 - (b) suspend an employee of the agency from duty without remuneration or accrual of leave rights for a specified period,
- on the ground of the employee's misconduct.

Note—

Disciplinary action may also take the form of—

- (a) reduction of the remuneration level of an employee under section 53; or
- (b) termination of an employee's employment under section 54.

A public sector agency may, in conjunction with taking disciplinary action—

- (a) assign an employee to different duties or to a different place under section 47;
- or
- (b) transfer an employee to other employment under section 9.

(2) Nothing prevents a public sector agency from taking more than 1 form of disciplinary action against an employee for misconduct



Code of Ethics

for the South Australian public sector

publicsector.sa.gov.au



**Government
of South Australia**

Office of the Commissioner
for Public Sector Employment

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Please note that the content of this document was last updated January 2022.

The Government of South Australia acknowledges Aboriginal people as the first peoples and nations of South Australia.

The South Australian Government and public sector recognise and respect their cultural connections as the traditional owners and occupants of the land and waters of South Australia and that they maintain a unique and irreplaceable contribution to the state.

Introduction

The government is committed to ensuring that South Australia is a place where people and business thrive.

The public sector must serve this vision through a strong culture of service excellence, founded on a productive working relationship with communities and business.

Above all, this relationship must be established on trust, and the guarantee that public sector employees will act effectively and with the utmost professional integrity.

This Code of Ethics for the South Australian public sector is the Code of Conduct for the purposes of the *Public Sector Act 2009*, and all public sector employees are bound by it.

One of the primary aims of the Act is to embed a culture of “one government” across the sector. Although public sector employees work in a diverse range of professions and organisations, they should be united by common values and standards of professionalism. These values and standards are articulated in this Code.

This Code has been updated to ensure its relevance to the opportunities and challenges that face modern South Australia. It incorporates the views provided by employees and other stakeholders since the Code was last issued in 2010.

It is intended that the Code will help employees challenge traditional ways of working while maintaining the essential principles of their profession and reliably serving the community and Government of the day.



Application of the code

All public sector employees are bound by the code of ethics

RESPONSIBILITY OF EMPLOYEES

This Code of Ethics for the South Australian public sector is the Code of Conduct for the purposes of the *Public Sector Act 2009*, and all public sector employees are bound by it regardless of:

- the nature or level of employment;
- employment status; or
- the nature of the public sector organisation in which an employee works.

Every public sector employee must familiarise themselves with the content of this Code and conduct themselves in a manner consistent with the values and standards of professional conduct that are set out herein.

Some public sector employees, such as health professionals and lawyers, are bound by codes of conduct specific to their profession. In such cases, employees must have regard to the Code of Ethics for the South Australian public sector as well as their professional codes.

RESPONSIBILITY OF CHIEF EXECUTIVES AND OTHER ORGANISATIONAL LEADERS

Strong and visible leadership is a critical factor in achieving support for, and adherence to, the values and professional conduct embodied by this Code.

Chief executives and other organisational leaders have a special responsibility to demonstrate publicly their support for both the spirit and letter of the Code through their actions.

In addition to exemplary personal behaviour, chief executives and other organisational leaders are responsible for raising awareness of the Code, promoting debate on application of its content, and responding to any issue – including requests for guidance – raised by employees.

STATUTORY RESPONSIBILITY OF THE COMMISSIONER FOR PUBLIC SECTOR EMPLOYMENT

It is the responsibility of the Commissioner for Public Sector Employment to issue this Code under Part 4, Section 14(1)(a) of the *Public Sector Act 2009*.

The Commissioner will also monitor and report to Parliament on the extent to which the Code has been observed. The Commissioner is required to keep the Code under review and may vary, or revoke and substitute the Code.

Four foundations

The values and standards outlined in this code build upon four foundations of public service.

DEMOCRACY

It is the role of the public sector to support the Government of the day, under law and the Constitution, in achieving the common good, primarily by providing services to the community. An emerging feature of South Australia's democracy is a higher level of collaboration between the public sector and the community in the design and delivery of services and the involvement of people in decisions that affect their lives.

IMPARTIALITY

Public sector employees must be detached from political influence and the influence of partisan interests within the community. Instead, public sector employees must rely on evidence to provide objective advice to Government and implement directions promptly and thoroughly.

ACCOUNTABILITY

Within a broad system of accountability under which ministers are accountable to Parliament, public sector employees are accountable for exercising their delegated authority and for performing their role within the values and standards of conduct outlined in this Code.

DIVERSITY

The South Australian public sector should be as diverse as the community it serves. The views and experiences of all people should be respected, regardless of nationality, gender, cultural or social background, sexuality, religion, age, or physical or intellectual ability.

Public sector values

Ministers, chief executives and other public sector employees have collectively defined values to guide the sector's long-term development.

The values are, in part, based on the traditional tenets of public service. Yet they also reflect the evolution of the sector, and the modern world in which it operates.

The values are articulated in the *Public Sector Values and Behaviours Framework*.

All public sector employees should endeavour to embody the values in their work.

Service

Proudly serve the community and Government of South Australia.

Professionalism

Strive for excellence.

Trust

Have confidence in the ability of others.

Respect

Value every individual.

Collaboration and engagement

Create solutions together.

Honesty and integrity

Act truthfully, consistently, and fairly.

Courage and tenacity

Never give up.

Sustainability

Work to get the best results for current and future generations of South Australians.

Professional conduct standards

Employees must exhibit the highest standards of professional conduct in order to maintain the integrity of the South Australian public sector.

These professional conduct standards are the disciplinary provisions of the Code of Conduct for the purposes of the *Public Sector Act 2009*.

Contravention or failure to comply with these professional conduct standards will constitute misconduct as defined by the *Public Sector Act 2009*. Any employee who fails to comply with these conduct standards may be liable to disciplinary action.

Public sector organisations may choose to issue agency specific conduct standards. Additional standards must be consistent with these standards, the *Public Sector Act 2009*, the *Public Sector Regulations 2010* and any other relevant legislation, industrial instrument or Government policy. Such conduct standards are not to be labelled as a 'code'.

This section of the Code outlines the standards of conduct regarding:

- Professional and courteous behaviour
- Public comment
- Handling official information
- Use of government/public resources
- Conflicts of interest
- Outside employment
- Acceptance of gifts and benefits
- Criminal offences
- Reporting unethical behaviour

PROFESSIONAL AND COURTEOUS BEHAVIOUR

Public sector employees will not at any time act in a manner that a reasonable person would view as bringing them, the agency in which they work, the public sector, or Government into disrepute; or that is otherwise improper or disgraceful.

Public sector employees will comply with a lawful and reasonable direction given to them as an employee by a person with authority to give such direction.

Public sector employees will at all times treat other persons with respect and courtesy.

Public sector employees will not be absent from duty without authority or proper explanation or excuse.

Public sector employees will be diligent in the discharge of their role and duties and not act in a way that is negligent.

PUBLIC COMMENT

Public sector employees will only make public comment in relation to their duties, the public sector or the Government including policy and programs when specifically authorised to do so. Such comment will be restricted to factual information and professional advice and avoid the expression of personal opinion. Public comment includes providing information or comment to or in any media (electronic and print), including posting comment on the internet and speaking engagements.

Notwithstanding the above, public sector employees may engage in a private capacity in conduct intended to influence public opinion on an issue, or promote an outcome in relation to an issue of public interest except in the circumstances set out in section 15(2) of the *Public Sector Act 2009*.

These provisions do not apply to certain statutory office holders (or other authorised officers or employees) who are entitled to make independent public comment, either through convention, under legislation or pursuant to delegated authority.

HANDLING OFFICIAL INFORMATION

By virtue of their duties, public sector employees frequently access, otherwise deal with, and/or are aware of, information about issues, facts and circumstances that they know, or where a reasonable person in the circumstances would know, needs to be treated as confidential.

Public sector employees will not access or attempt to access official information other than in connection with the performance by them of their duties and/or as authorised.

Public sector employees will not disclose official information acquired through the course of their employment other than is required by law or where appropriately authorised in the agency concerned.

Public sector employees will not misuse information gained in their official capacity, including, but not limited to:

- purchasing shares or other property on the basis of confidential information about the affairs of a business or of a proposed Government action; or
- seeking to use information for personal benefit or gain or for the personal benefit or gain of another.

Public sector employees will maintain the integrity and security of official information for which they are responsible. Employees will also ensure that the privacy of individuals is maintained and will only release information in accordance with relevant legislation, industrial instruments, policy, or lawful and reasonable direction.

USE OF GOVERNMENT/PUBLIC RESOURCES

Public sector employees shall use the Government/public resources that are the property of the Crown efficiently and only for appropriate purposes as authorised.

Government/public resources (Crown property) include physical, financial, technological and intellectual property.

The Crown retains ownership of these resources.

CONFLICTS OF INTEREST

Public sector employees will avoid actual or potential conflicts of interest.

Public sector employees will ensure their personal or financial interests do not influence or interfere with the performance of their role. They will ensure the interests of family members, friends or associates (as defined in the *Public Sector (Honesty and Accountability) Act 1995*) do not influence the performance by them of their duties and/or their role as a public sector employee.

Employees will disclose in writing to their chief executive or agency head any actual or potential conflicts of interest at the earliest available opportunity and comply with any lawful and reasonable direction issued by a person with authority to issue such direction to resolve the conflict or potential conflict, including written direction by a relevant authority pursuant to the *Public Sector (Honesty and Accountability) Act 1995*.

OUTSIDE EMPLOYMENT

Public sector employees must not engage in employment or other remunerative activity outside of their public sector employment where the activity conflicts with, or has the potential to conflict with, their role as a public sector employee, or if the performance of such outside employment or activity might affect their capacity to perform their public sector duties.

Public sector employees will obtain written permission from their agency head or delegate before engaging in any outside employment or remunerative activity (including any employment, work or service for which payment is made by way of pay, salary, honorarium, commission, fee, allowance or other reward).

In general, it is not necessary for employees to obtain permission to involve themselves in or undertake voluntary or unpaid activities or paid recreational activities (e.g. sport coaching) unless there is an actual or potential conflict of interest between such activity and their duties and/or role as a public sector employee.

Public sector employees who leave the public sector to work with a non Government employer will avoid situations which would result in an unfair advantage for their new employer. This holds particularly in the case where the employer is bidding for a government contract or is competing for a grant or similar disbursement of public moneys.

ACCEPTANCE OF GIFTS AND BENEFITS

Public sector employees will not seek or accept gifts or benefits for themselves or others that could be reasonably perceived as influencing them in the performance of their duties and functions as a public sector employee.

Non pecuniary gifts or benefits offered to employees by representatives of other governments may be accepted, as may gifts from non Government sources if they are obviously mementos or gifts of a symbolic nature.

All employees will comply with any policies of their agency in relation to accepting, declaring and/or recording the receipt of gifts or benefits.

CRIMINAL OFFENCES

Public sector employees will at the earliest possible opportunity advise their manager (or if their manager is not available, some other person in management in the agency in which they are employed or working) if they are charged with a criminal offence and, if admitted or proven, there would be a connection between the offending conduct and the employee's public sector duties/ role or position and/or status.

Reports to a manager or person in management will be in writing.

Public sector employees will comply with all legislation, industrial instruments, policies and procedures and lawful and reasonable directions relevant to their role as a public sector employee and/or to the performance of their duties.

REPORTING UNETHICAL BEHAVIOUR

Public sector employees will report to an appropriate authority workplace behaviour that a reasonable person would suspect violates any law, is a danger to public health or safety or to the environment, or amounts to misconduct. This obligation does not derogate from the obligations on public sector employees under the Directions and Guidelines issued by the Independent Commission Against Corruption, the Office for Public Integrity or the Ombudsman SA.

Public sector employees who are potential witnesses or are otherwise capable of assisting, will actively cooperate and assist with any investigation into the suspected or alleged conduct of another public sector employee that, if proven, would amount to misconduct (including corruption and maladministration as defined in the *Independent Commission Against Corruption Act 2012*) and any other processes relating to the management of such suspected or alleged conduct. This obligation does not impact upon the right against self incrimination of employees suspected of committing or alleged to have committed misconduct.

Public sector agencies will inform employees of their rights and responsibilities under the *Public Interest Disclosure Act 2018*.

FURTHER INFORMATION

Legislation and regulations, including:

- *Public Sector Act 2009*
- *Public Sector Regulations 2010*
- *Public Sector (Honesty and Accountability Act) 1995*
- *Independent Commission Against Corruption Act 2012*
- *Public Corporations Act 1993*
- *Criminal Law Consolidation Act 1935*
- *Summary Offences Act 1953*
- *Equal Opportunity Act 1984*
- *Freedom of Information Act 1991*
- *Work Health and Safety Act 2012*
- *Public Finance and Audit Act 1987*
- *Public Interest Disclosure Act 2018*
- *Lobbyist Code of Conduct*
- *State Records Act 1997*
- *Disability Discrimination Act 1992* (Commonwealth Government)
- any other relevant agency specific legislation

Public sector values and behaviours framework

Determinations and guidelines issued by the Commissioner for Public Sector Employment

Public sector wide policies issued by the government, the Department of the Premier and Cabinet, the Department of Treasury and Finance, and the Commissioner for Public Sector Employment

Any agency specific policies and conduct standards

Treasurer's Instructions

Directions and guidelines issued by the Independent Commission Against Corruption

The Office for Public Integrity

Independent Commission Against Corruption

Ombudsman SA

South Australia Police anti corruption branch

Crown Solicitor's Office

The Office of the Commissioner for Public Sector Employment

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**Government
of South Australia**

Office of the Commissioner
for Public Sector Employment

RELEASED

IN

PART

Stocker, Inthira (DTF)

From: Tatarelli, Paul (DTF)
Sent:
To: Holling, Kristian (DTF); Harris, Maria (DTF)

Upon return in the New Year, I think further discussion is warranted.

Kind Regards

Paul Tatarelli

Manager, Electorate Services, | Financial Management, Reporting and Policy

State Administration Centre, Level 6, 200 Victoria Square ADELAIDE SA 5000

GPO Box 1045 ADELAIDE SA 5001

t (08) 822 62995 | m **Clause 6(1)** | e paul.tatarelli@sa.gov.au | w treasury.sa.gov.au

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From: Tatarelli, Paul (DTF)
Sent:

Thank you for bringing this situation to my attention.

Regards

Paul Tatarelli
Manager, Electorate Services, | Financial Management, Reporting and Policy

State Administration Centre, Level 6, 200 Victoria Square ADELAIDE SA 5000
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From:
Sent:
To: Tatarelli, Paul (DTF) <Paul.Tatarelli@sa.gov.au>

