



Government
of South Australia

TRS20D2611

Hon Stephen Mullighan MP
Member for Lee
Unit 1, 62 Semaphore Road
SEMAPHORE SA 5019

lee@parliament.sa.gov.au

Treasurer
Level 8
State Administration Centre
200 Victoria Square
Adelaide SA 5000
GPO Box 2264
Adelaide SA 5001
DX 56203 Victoria Square
Tel 08 8226 1866
treasurer.dtf@sa.gov.au

Stephen

Dear Mr Mullighan

APPLICATION UNDER THE FREEDOM OF INFORMATION ACT 1991

I refer to your application made under the *Freedom of Information Act 1991* (the Act), dated 5 August 2020.

Your application seeks access to:

"All minutes, briefings and correspondence titled 'Financial Management – Request for Charges to Treasurer's Instructions 14 – Ex Gratia Payments for Reimbursements of Legal Fees' as described on the Objective document management system, between 9 April and 5 August 2020."

The prescribed legislative timeframe to determine this application has expired and is now deemed as refused access to documents relevant to your application. I refer to my letter dated 18 August 2020 where I sought additional time to make my determination.

The purpose of this letter is to advise you of my determination. An extensive search was conducted within this office. A total of 4 documents were identified as answering the terms of your application.

I grant you access in part to 1 document; a copy of which is enclosed.
I refuse you access in full to 3 documents.

Documents Released in Part

Document 4 is released in part as disclosure would divulge information concerning a deliberation of Cabinet. I therefore determine this exempt pursuant to clause 1(1)(e).

Documents Refused in Full

Documents 1, 2 and 3

Document 1 is a briefing prepared by the Department of Treasury and Finance to myself, as Treasurer, seeking approval. I advise that Document 1 is exempt as disclosure would divulge information concerning a deliberation of Cabinet and it was

a briefing paper which was specifically prepared for the use of a Minister in relation to a matter submitted to Cabinet.

I advise this matter was considered by Cabinet and therefore determine Document 1 exempt, pursuant to clause 1(1)(e) and (f).

Document 2 is a copy of Legal Bulletin 5 and Document 3 is a copy of Treasurer's Instruction 14. I am advised that both Document 2 and 3 were included as attachments to a Cabinet submission and therefore exempt, pursuant to clause 1(1)(b). However, I understand that both documents are publicly available.

Exemptions

Clause 1 – Cabinet Documents

(1) *A document is an exempt document—*

- (a) *if it is a document that has been specifically prepared for submission to Cabinet (whether or not it has been so submitted); or*
- (b) *if it is a preliminary draft of a document referred to in paragraph (a); or*
- (c) *if it is a document that is a copy of or part of, or contains an extract from, a document referred to in paragraph (a) or (b).*
- (e) *if it contains matter the disclosure of which would disclose information concerning any deliberation or decision of Cabinet; or*
- (f) *if it is a briefing paper specifically prepared for the use of a Minister in relation to a matter submitted, or proposed to be submitted to Cabinet.*

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

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://dpc.sa.gov.au/resources-and-publications/premier-and-cabinet-circulars>. Please visit the website for further information.

If you require any further information, please contact Vicky Cathro on 8226 9769.

Yours sincerely



Hon Rob Lucas MLC
Principal Officer

20 February 2021

Att.

Schedule of Documents

TRS20D2611 - Financial Management - Request for Changes to Treasurer's Instruction 14 - Ex Gratia Payments for Reimbursement of Legal Fees

Doc. No.	Date	Description of Document	# of pages	Determination Recommendation	Exemption Clause	Reason
1	17/06/2020	Briefing to Treasurer from DTF	3	Refused in full	1(1)(e) - Contains information concerning deliberation or decision of Cabinet or Cabinet committee	
					1(1)(f) - Briefing prepared for use of Minister regarding matter submitted to Cabinet	
2		Attachment 1 to Document 1 - Legal Bulletin 5 - Reimbursement of Legal Fees	7	Refused in full	1(1)(b) - Draft of document prepared for Cabinet or Cabinet committee	publicly available
3		Attachment 2 to Document 1 - Treasurer's Instruction 14 - Ex Gratia Payment	4	Refused in full	1(1)(b) - Draft of document prepared for Cabinet or Cabinet committee	publicly available
4	3/07/2020	Minute to All Ministers from Treasurer	1	Released in part	1(1)(e) - Contains information concerning deliberation or decision of Cabinet or Cabinet committee	

RELEASE IN PART



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MINUTES forming ENCLOSURE to: Physical ID: TRS20D1997

TO: ALL MINISTERS

RE: REIMBURSEMENT OF LEGAL FEES

Further to Cabinet's approval on [redacted] of Legal Bulletin 5, Ministers are advised that *Treasurer's Instruction 14: Ex Gratia Payments*, has been [redacted] to the reimbursement of legal fees.



Ministers should note that there is no change to TI14.4, which remains limited in application to public authorities that are administrative units, and prescribes the following:

- 14.4 A Chief Executive of an administrative unit shall obtain the following approvals before an ex gratia payment, other than an ex gratia payment approved under clause 14.4A, is made:
 - 14.4.1 where the amount is \$10,000 (inclusive of GST) or less - the responsible Minister;
 - 14.4.2 where the amount is in excess of \$10,000 (inclusive of GST) - the Treasurer;
 - 14.4.3 where it is proposed that the Government intervene in a matter between two parties in the public interest - Cabinet.

Any questions your staff may have regarding Legal Bulletin 5 and its application should be directed to Steph Halliday, Special Counsel to the Chief Executive, Attorney-General's Department on 8207 1540, and questions regarding TI 14 should be directed to Sally Karasoulos, Senior Project Officer, Department of Treasury and Finance, on 8207 1865.

Hon Rob Lucas MLC
Treasurer

3 July 2020