

From: [FOI](#)
To: [Rush, Peter](#)
Cc: s 22 ; s 22 ; [FOI](#)
Subject: FW: FOI Consultation - Humanitarian Overseas Service Medal Declaration ~~[SEC-PROTECTED, DLM-Sensitive:Legal]~~
Date: Tuesday, 26 November 2019 5:27:14 PM

~~**PROTECTED**~~
~~**Sensitive:Legal**~~

Dear Peter and s 22

FYI – OPC had touched base with us regarding an internal review request they received from s 47F s 47F, in relation to OPC's decision to refuse access to documents regarding an amendment to the Humanitarian Overseas Service Medal Declaration in 2012. OPC claimed those documents were exempt under s42 (Legal Privilege) of the FOI Act.

OPC did not provide us with a copy of the documents in question, however today they confirmed that they have provided s 47F with their internal review decision which affirmed the s42 exemption over those documents. They advised that they also consulted DFAT who did not waive legal privilege over this matter (further information is below).

Regards

s 22

s 22 | Advisor
 FOI & Privacy Section
 Legal Policy Branch | Government Division
 Department of the Prime Minister and Cabinet
 p. s 22
 e. s 22 | foi@pmc.gov.au | www.pmc.gov.au
 One National Circuit Barton ACT 2600 | PO Box 6500 CANBERRA ACT 2600



The Department acknowledges the Traditional Custodians of Country throughout Australia and their continuing connection to land, waters and community. We pay our respect to their Cultures, Country and Elders both past and present.

From: s 22
Sent: Tuesday, 26 November 2019 4:19 PM
To: FOI <FOI@pmc.gov.au>
Subject: RE: FOI Consultation - Humanitarian Overseas Service Medal Declaration
~~[SEC-PROTECTED, DLM-Sensitive:Legal]~~

This e-mail and/or its attachments have been classified by OPC as ~~Protected Sensitive:Legal~~

s 22

Confirming our discussion re s 47F FOI request. My original email did not provide the

original documents as we considered the issue of LPP would be considered on the basis of consistent policy rather than the content of individual documents. I also apologise for not providing a timeframe for a requested response to assist our internal review.

The review decision was due today. OPC's internal review officer finalised their decision this morning and forwarded it to **s 47F**. The decision was to refuse access to the documents based on the s42(1) exemption for legal professional privilege.

Regards

s 22

s 22

Office of Parliamentary Counsel | 28 Sydney Ave Forrest ACT 2603
| Locked Bag 30 Kingston ACT 2604

T **s 22** | **M** **s 22** | **F** **s 22**

W www.opc.gov.au | **E** **s 22**

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From: FOI [<mailto:FOI@pmc.gov.au>]

Sent: Tuesday, 26 November 2019 3:28 PM

To: **s 22**

Cc: FOI

Subject: RE: FOI Consultation - Humanitarian Overseas Service Medal Declaration

~~[SEC=PROTECTED, ACCESS=Legal-Privilege]~~

~~**PROTECTED**~~

~~**Legal privilege**~~

PM&C reference: C19/174

Hi **s 22**

Just tried to call you and I left a voicemail. I am calling in relation to your below email, grateful if you can give me a call at the earliest opportunity.

I note that the documents were not included in your below email.

Regards

s 22

s 22 | Advisor

FOI & Privacy Section

Legal Policy Branch | Government Division

Department of the Prime Minister and Cabinet

p. **s 22**

e. **s 22** | foi@pmc.gov.au | www.pmc.gov.au



The Department acknowledges the Traditional Custodians of Country throughout Australia and their continuing connection to land, waters and community. We pay our respect to their Cultures, Country and Elders both past and present.

From: [REDACTED] s 22
Sent: Thursday, 7 November 2019 12:57 PM
To: FOI <FOI@pmc.gov.au>
Subject: FOI Consultation - Humanitarian Overseas Service Medal Declaration
~~[DLM - Sensitive: Legal]~~

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Good afternoon

OPC is currently arranging an internal review of an FOI decision in relation to an amendment to the Humanitarian Overseas Service Medal Declaration in 2012. OPC's decision to refuse access to documents was based on the s42(1) exemption for documents which would be protected by legal professional privilege.

In ^{s 47F} request for review, [REDACTED] s 47F asserts that AusAid (DFaT) provided ^{s 47F} with a copy of the draft declaration and that this would imply a waiver of legal privilege. The Department of Foreign Affairs and Trade has advised that they do not waive legal professional privilege in this matter but also indicated that the Department of Prime Minister and Cabinet administers the Humanitarian Overseas Service Medal and may have some interest in this FOI request.

Can you please advise if the Department of Prime Minister and Cabinet agrees to waive the application of s42(1) exemption to documents relating to the 2012 amendment to the Humanitarian Overseas Service Medal Declaration.

I have copied the text of the original FOI request, and the request for internal review, below.

Regards

[REDACTED] s 22

Office of Parliamentary Counsel | 28 Sydney Ave Forrest ACT 2603
| Locked Bag 30 Kingston ACT 2604

T [REDACTED] s 22 | **M** [REDACTED] s 22 | **F** [REDACTED] s 22

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Original FOI request

Dear FOI officer

I'd be grateful if you're able to accept this as a request under the FOI Act.

In 2012 the then 'Office of Legislative Drafting and Publishing' drafted proposed amendments to the humanitarian overseas service medal declaration to extend eligibility to specific commercial contractors. In this case to s 47G personnel.

From what I recall phone call and email correspondence regarding the proposed amendment occurred between AG, PMC and AusAID around February and September 2012.

I seek a copy of proposed amendment and any documents including emails related to that proposed amendment.

Please let me know if you require further information.

Kind regards

s 47F

Request for internal review

Dear s 22,

I'm following up my 10 October email to OPC.

I'd be grateful if OPC can review their decision not to disclose the documents I seek, cited in decision letter c19/77 attached.

I respectfully contend the section 42(1) exemption doesn't appear to apply in this case as AusAID disclosed the proposed amendment of humanitarian overseas service medal (iraq) declaration 2004 to extend to specified commercial contractors to me in March 2012. AusAID apparently waived the legal professional privilege after engaging in conduct that is inconsistent with the maintenance of that privilege.

Kind regards

s 47F

[OPCTRM:PC:C19/77]

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