



Mr. Andrew Terhorst

By email: foi+request-12297-811f12f5@righttoknow.org.au

Office of General Counsel
GPO Box 367
CANBERRA CITY ACT 2601
www.airservicesaustralia.com

ABN 59 698 720 886

Dear Mr Terhorst

FOI 24-78 - Decision on Access

Request

On 5 November 2024, you made a request under the *Freedom of Information Act 1982 (Cth)* (**FOI Act**) for access to documents in the possession of Airservices Australia (**Airservices**). Your request sought access to:

1. *What percentage of your executive team and board has been granted exclusive access to the Chairman's Lounge (Qantas) or the Beyond Lounge (Virgin Australia)?*
2. *How often have your executives and board members been given free flights or flight upgrades by the major airlines for personal travel?*

Extension of time

On 3 December 2024, FOI emailed you to explain that Airservices had several open Questions on Notice (QoN) that included questions covered by the scope of your request e.g. airline lounge memberships and flight upgrades.

FOI requested a 30-day extension of time under section 15AA of the FOI Act to process your request by providing additional time for the QoN responses to progress.

On 4 December 2024, you agreed by reply email to the extension of time and to the new decision date of 4 January 2025. As the 4 January 2025 is a Saturday, I am able to defer my decision to the next available week day i.e. **COB Monday 6 January 2025**.

Decision

I am authorised under section 23 of the FOI Act and the Airservices Instrument of Delegation and Authorisation to make decisions on primary requests under the FOI Act.

I have decided not to impose a charge in relation to this request, in accordance with Regulation 8 of the *Freedom of Information (Charges) Regulations 2019*.

Access deferred (section 21)

Airservices has undertaken a reasonable search of its records and has located one (1) document that meets the scope of part 1 of your request (referred to as Document 1 in this letter).

I have made a decision to defer access to this document until a later date under section 21 of the FOI Act.

Access refused (section 24A)

OFFICIAL

I have decided to refuse access under section 24A of the FOI Act to documents sought by part 2 of your request on the basis that the documents sought do not exist.

The reasons for my decision are set out in the Statement of Reasons at **Attachment A**.

Review rights and complaints

Information about your rights of review and how you can make a complaint about the handling of your request is at **Attachment B**.

Contact

If you wish to discuss my decision please contact me at foi@airservicesaustralia.com.

Yours sincerely

Nick Kordaris
Authorised FOI Decision Maker

6 January 2025

STATEMENT OF REASONS

Material on which the decision is based

I relied on the following material in coming to this decision:

- the terms of the request (which I have numbered as part 1 and part 2);
- the documents subject to the FOI request;
- the types of information and documents that are in Airservices's possession;
- advice from subject matter specialists within Airservices regarding the nature and sensitivity of the documents subject to the request;
- the FOI Act; and
- the guidelines issued by the Australian Information Commissioner under section 93A of the FOI Act (**FOI Guidelines**).

Section 21 – deferment of access

Under section 21(1)(c) of the FOI Act, an agency is able to defer the provision of access to a document:

- (a) if the publication of the document concerned is required by law – until the expiration of the period within which the document is required to be published; or
- (b) if the document concerned has been prepared for presentation to Parliament or for the purpose of being made available to a particular person or body with the intention that it should be so made available – until the expiration of a reasonable period after its preparation for it to be so presented or made available; or
- (c) if the premature release of the document concerned would be contrary to the public interest – until the occurrence of any event after which or the expiration of any period of time beyond which the release of the document would not be contrary to the public interest.

Document 1 is a draft QoN response relating to airline lounge membership. The draft QoN response is yet to be considered and approved by the Minister after which it will be submitted to the Senate Table Office. The Senate Table Office will then supply a copy to the senator who asked the question and arrange for the question and the reply to be printed in Hansard (see [No. 12 - Questions – Parliament of Australia](#)).

Accordingly, I have decided to defer access to Document 1 on the basis that it has been prepared for the purpose of being made available to a particular person (i.e. to the senator who asked the question as part of the Questions on Notice process). The applicable deferred access period is the point at which Document 1 has been submitted to the Senate Table Office.

I note that while access to Document 1 has been deferred, FOI's email to you on 3 December 2024 provided you with the following information that is within scope of Part 1 of your request:

1. Airservices Interim CEO, Mr Rob Sharp, stated on public record at the last Senate Estimates that no Airservices executive have Qantas Chairman's Lounge memberships (refer to page 116 of the publicly available transcript at [Rural and Regional Affairs and Transport Legislation Committee 2024 11 04.pdf;fileType=application/pdf](#)).
2. Airservices publishes a register of received gifts and benefits for the CEO and executives on its website at: <https://www.airservicesaustralia.com/corporate-publications/>. The register captures the Chief Executive Officer's Qantas Chairman's Lounge membership with the latest record of this membership available [here](#).

Section 24A – refuse access

An agency may refuse access if it has taken 'all reasonable steps' to find the document requested, and is satisfied that the document cannot be found or does not exist (section 24A(1) of the FOI Act).

Part 2 of your request seeks documents or information held by Airservices in relation to any free flights or flight upgrades received by Airservices executives and board members by the major airlines for personal travel.

FOI's email to you on 3 December 2024 inadvertently stated that Airservices' register of received gifts and benefits includes all executive flight upgrades (personal and business). I'd like to correct this statement and note that the register only includes upgrades for business travel and that Airservices does not capture or collate flights or flight upgrades received for personal travel. It is open to you to refer to Airservices' register of received gifts and benefits at <https://www.airservicesaustralia.com/corporate-publications/> for CEO and executive flight upgrades received for business travel.

Airservice's register of received gifts and benefits follows the guidance published by the Australian Public Services Commission on declaring gifts and benefits in relation to the performance of official duties (see: [Guidance for Agency Heads - Gifts and Benefits | Australian Public Service Commission](#)).

INFORMATION ON REVIEW RIGHTS

The *Freedom of Information Act 1982* (the **FOI Act**) gives you the right to apply for a review of this decision via:

- (a) an internal review; or
- (b) the Australian Information Commissioner (**Information Commissioner**).

Internal review

If you apply for internal review, it will be carried out by a different decision-maker who will make a fresh decision on your application. An application for review must be:

- (a) made in writing;
- (b) made within 30 days of receiving this letter; and
- (c) sent to foi@airservicesaustralia.com.

No particular form is required, but it is desirable to set out in the application the grounds upon which you consider the decision should be reviewed.

If the internal review results in you not being provided access to all of the documents to which you have requested access, you have the right to seek a review of that decision by the Information Commissioner.

Information Commissioner review

You can opt to instead seek external review by the Information Commissioner. To seek review you must apply to the Information Commissioner within 60 days of the receipt of this decision letter. Further details on this process can be found on their website at <https://www.oaic.gov.au/>.

You will also have the opportunity to seek Information Commissioner review of an Internal Review if you are dissatisfied with its outcome.

Complaints to the Information Commissioner

Information Commissioner

You may also complain to the Information Commissioner concerning action taken by an agency in the exercise of powers or the performance of functions under the FOI Act. There is no fee for making a complaint. A complaint to the Information Commissioner must be made in writing. Further details on this process can be found on their website at <https://www.oaic.gov.au/>.