



FOI 25-38

6 February 2025

Glenn Hamiltonshire
right to know.org.au

By email: foi+request-12638-c826b0e4@righttoknow.org.au

Sydney

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Australian Prudential Regulation Authority
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Dear Mr Hamiltonshire

NOTICE OF DECISION MADE UNDER SECTION 23 OF THE FREEDOM OF INFORMATION ACT 1982 (CTH) (FOI ACT) WITH REASONS FOR DECISION PROVIDED UNDER SECTION 26

Applicant:	Glenn Hamiltonshire
Decision-maker:	Benjamin (person number 1781), an authorised officer of the Australian Prudential Regulation Authority (APRA) for the purposes of subsection 23(1) of the FOI Act.
FOI request:	'I request access to the Style Guides/Brand Guides/Writing Guides currently used for the Australian Prudential Regulation Authority.' (FOI request)
My decision:	Grant partial access to the document specified in the Applicant's request under subsections 11A(3) and 22 of the FOI Act.

MATERIAL FACTS

1. On 16 December 2024, you made the FOI request by email under the FOI Act.
2. On 16 December 2024, APRA acknowledged receipt of the request by email.
3. On 16 December 2024, APRA extended the decision date under section 15AA of the FOI Act until 14 February 2025.

EVIDENCE AND MATERIAL RELIED ON

4. In making my decision, I have relied on the following evidence and material:
 - (a) the Applicant's request received by APRA on 16 December 2024;
 - (b) acknowledgment email from FOI Officer to the Applicant dated 16 December 2024;
 - (c) internal APRA email correspondence from 7 January 2025 to 31 January 2025, inclusive;
 - (d) relevant sections of the FOI Act; and
 - (e) guidelines issued by the Office of the Australian Information Commissioner to date (**FOI Guidelines**).
5. APRA has conducted all reasonable searches of its records and identified one document relevant to your FOI request (**Relevant Document**), as listed in the Schedule to this Notice of Decision.

REASONS

6. I have decided to grant partial access to the Relevant Document under subsection 11A(3) of the FOI Act.
7. I have decided to refuse access to the remainder of the Relevant Document under subsection 47E(d) of the FOI Act.
8. Section 22 of the FOI Act allows an agency to prepare an edited copy of the Relevant Document, modified by deletions, ensuring that the edited copy would not disclose any information that would reasonably be regarded as irrelevant to the request. Personal details (such as names, titles, telephone numbers, email addresses and photos) are irrelevant to the request and have been redacted in the Relevant Document under section 22 of the FOI Act.
9. My reasons for the refusal are set out in paragraphs 10 to 21 below.

Conditional exemption for documents disclosing certain operations of agencies – subsection 47E(d) of the FOI Act.

10. Subsection 47E(d) of the FOI Act conditionally exempts documents where disclosure would, or could reasonably be expected to have a substantial adverse effect on the proper and efficient conduct of APRA's operations. An extract of section 47E of the FOI Act is attached to these reasons.
11. Paragraph 6.115 of the FOI Guidelines provide that for the exemption to apply, "the predicted effect must bear on the agency's proper and efficient operations, that is the agency is undertaking its operations in an expected manner".
12. The Relevant Document contains information regarding the colour palette, fonts, logo, images and graphic devices in APRA's documents used for the purpose of APRA's operations (**Brand Material**).
13. APRA's operations include its prudential work in maintaining financial system resilience, improving outcomes for superannuation members, transforming governance, culture, remuneration and accountability across all regulated institutions and improving cyber resilience across the financial system.
14. The Brand Material if disclosed, could reasonably be expected to be used for fraudulent purposes to impersonate APRA and create documents, communications and online material, wrongfully purporting to be issued by APRA in relation to its prudential work.

15. Any fraudulent use of the Brand Material could reasonably be expected to undermine trust in the authenticity of APRA's communications, compromise APRA's operations and increase risks and workloads for APRA's Supervision, Enforcement and Enterprise teams.
16. Disclosure of the Relevant Document without redaction of the Brand Material would present a significant risk to APRA's ability to perform its operations in the manner expected by APRA, other regulators and the public.
17. I am satisfied that disclosure of the Brand Material could reasonably be expected to have a substantial adverse effect on the proper and efficient conduct of APRA's operations, and am therefore satisfied that the Relevant Document is conditionally exempt under section 47E(d) of the FOI Act.

Application of the public interest test

18. I have reviewed the FOI Act and FOI Guidelines and consider that the following factors favour the disclosure of the Relevant Document without redaction of the Brand Material:
 - (a) promoting the objects of the FOI Act; and
 - (b) informing debate on a matter of public importance.
19. I have also considered factors which would apply against the disclosure of the Relevant Document without redaction of the Brand Material. I consider that such disclosure would or could be reasonably expected to:
 - (a) inhibit APRA's ability to perform its operations; and
 - (b) have a substantial adverse effect on the proper and efficient conduct of APRA's operations.
20. I have reached the view that on balance, the risk factors against the disclosure outweigh the public interest factors and that the disclosure of the Brand Material would therefore be contrary to the public interest.
21. As the Relevant Document is conditionally exempt under section 47E(d) of the FOI Act, it has been redacted under section 22 to give access to an edited copy of the Relevant Document under section 11A(3). Extracts of sections 11A and 11B of the FOI Act are attached to these reasons.

RIGHTS OF REVIEW

Application for Internal Review of decision

22. Under section 54 of the FOI Act, you have the right to apply for an internal review of the decision if you disagree with my decision. If you make an application for review, another officer of APRA will be appointed to conduct the review and make a fresh decision on the merits of the case.
23. Under section 54B of the FOI Act, you must apply in writing for a review of the decision within 30 days after the day the decision has been notified to you (subject to any extension granted by APRA).
24. You do not have to pay any other fees or processing charges for an internal review, except any fees and charges applicable for providing access to further material, if any, in the document(s) released as a result of the review (for example, photocopying, inspection, etc).
25. No particular form is required to apply for review, although it is desirable (but not essential) to set out in the application, the grounds on which you consider that the decision should be reviewed. An application for internal review of the decision should be:
 - (a) sent by email to xxx@xxxx.xxx.au (preferred);
 - (b) sent by post or hand delivered, addressed to:

FOI Officer
Australian Prudential Regulation Authority
GPO Box 9836
Sydney NSW 2001.

26. If you make an application for internal review and we do not make a decision within 30 days of receiving the application, we are deemed to have affirmed the original decision. However, under section 54D of the FOI Act, APRA may apply, in writing to the Information Commissioner, before that deadline, for further time to undertake the internal review.

Application for review by Information Commissioner

27. Under section 54L of the FOI Act, you also have the right to apply to the Information Commissioner for a review of the original decision set out in this Notice of Decision or a review of this decision made on internal review.

28. Any application must be in writing and must give details of an address where notices may be sent and include a copy of the original decision or the decision made on internal review.

29. An application for review by the Information Commissioner may be lodged with one of the following:

Online	Complete and lodge the online review form at: https://www.oaic.gov.au/freedom-of-information/your-freedom-of-information-rights/freedom-of-information-reviews/information-commissioner-review (Alternatively, you may download & complete the review form, then send it to the Office of the Australian Information Commissioner via post or email as detailed below)
Post	Director of FOI Dispute Resolution GPO Box 5218, Sydney NSW 2001
Email	foidr@oaic.gov.au

30. More information about your review rights under the FOI Act is available at: <https://www.oaic.gov.au/freedom-of-information/foi-guidelines/part-10-review-by-the-information-commissioner/>.

Application for review by Administrative Review Tribunal

31. If you apply for a review by the Information Commissioner, you may be able to make an application to the Administrative Review Tribunal (ART) for a review. The ART is an independent body with powers that include the ability to make a fresh decision in relation to your FOI request. The Information Commissioner's decision letter should tell you whether you are eligible to apply for the ART to conduct an independent review and the time limit to lodge an application for review.

32. An application fee of \$1121 is payable within six weeks of making an application to the ART. You may seek to have this amount reduced if payment would cause you financial hardship.

33. You can obtain more information about the review process, the application fees, or the possible outcomes of a review at <https://www.art.gov.au/applying-review/other-decisions> or on 1800 228 333.

Complaints to the Information Commissioner

34. You may complain to the Information Commissioner concerning action taken by APRA in the exercise of powers or the performance of functions under the FOI Act. There is no fee for making a complaint.

Benjamin (person number 1781)
FOI Officer
Australian Prudential Regulation Authority

Document Schedule

Document no.	Description	Exemption(s)	Access
1	APRA Brand guidelines dated 21 May 2024	Section 22 of the FOI Act	Partial

FREEDOM OF INFORMATION ACT 1982 (CTH)

11A Access to documents on request

Scope

- (1) This section applies if:
- (a) a request is made by a person, in accordance with subsection 15(2), to an agency or Minister for access to:
 - (i) a document of the agency; or
 - (ii) an official document of the Minister; and
 - (b) any charge that, under the regulations, is required to be paid before access is given has been paid.
- (2) This section applies subject to this Act.

Note: Other provisions of this Act are relevant to decisions about access to documents, for example the following:

- (a) section 12 (documents otherwise available);
- (b) section 13 (documents in national institutions);
- (c) section 15A (personnel records);
- (d) section 22 (access to edited copies with exempt or irrelevant matter deleted).

Mandatory access—general rule

- (3) The agency or Minister must give the person access to the document in accordance with this Act, subject to this section.

Exemptions and conditional exemptions

- (4) The agency or Minister is not required by this Act to give the person access to the document at a particular time if, at that time, the document is an exempt document.

Note: Access may be given to an exempt document apart from under this Act, whether or not in response to a request (see section 3A (objects—information or documents otherwise accessible)).

- (5) The agency or Minister must give the person access to the document if it is conditionally exempt at a particular time unless (in the circumstances) access to the document at that time would, on balance, be contrary to the public interest.

Note 1: Division 3 of Part IV provides for when a document is conditionally exempt.

Note 2: A conditionally exempt document is an exempt document if access to the document would, on balance, be contrary to the public interest (see section 31B (exempt documents for the purposes of Part IV)).

Note 3: Section 11B deals with when it is contrary to the public interest to give a person access to the document.

- (6) Despite subsection (5), the agency or Minister is not required to give access to the document at a particular time if, at that time, the document is both:

- (a) a conditionally exempt document; and
- (b) an exempt document:
 - (i) under Division 2 of Part IV (exemptions); or
 - (ii) within the meaning of paragraph (b) or (c) of the definition of **exempt document** in subsection 4(1).

Section 11B Public interest exemptions - factors

Scope

- (1) This section applies for the purposes of working out whether access to a conditionally exempt document would, on balance, be contrary to the public interest under [subsection 11A\(5\)](#).
- (2) This section does not limit [subsection 11A\(5\)](#).

Factors favouring access

- (3) Factors favouring access to the document in the public interest include whether access to the document would do any of the following:
 - (a) promote the objects of this Act (including all the matters set out in sections 3 and 3A);
 - (b) inform debate on a matter of public importance;
 - (c) promote effective oversight of public expenditure;
 - (d) allow a person to access his or her own personal information.

Irrelevant factors

- (4) The following factors must not be taken into account in deciding whether access to the document would, on balance, be contrary to the public interest:
 - (a) access to the document could result in embarrassment to the Commonwealth Government, or cause a loss of confidence in the Commonwealth Government;
 - (b) access to the document could result in any person misinterpreting or misunderstanding the document;
 - (c) the author of the document was (or is) of high seniority in the agency to which the request for access to the document was made;
 - (d) access to the document could result in confusion or unnecessary debate.

FREEDOM OF INFORMATION ACT 1982

SECT 47E Public interest conditional exemptions--certain operations of agencies

A document is conditionally exempt if its disclosure under this Act would, or could reasonably be expected to, do any of the following:

- (a) prejudice the effectiveness of procedures or methods for the conduct of tests, examinations or audits by an agency;
- (b) prejudice the attainment of the objects of particular tests, examinations or audits conducted or to be conducted by an agency;
- (c) have a substantial adverse effect on the management or assessment of personnel by the Commonwealth or by an agency;
- (d) have a substantial adverse effect on the proper and efficient conduct of the operations of an agency.

Note: Access must generally be given to a conditionally exempt document unless it would be contrary to the public interest (see section [11A](#)).