

**From:** Agostino, Julia  
**Sent:** Thursday, 10 June 2021 4:01 PM  
**To:** [REDACTED]  
**Subject:** NOTICE OF INTENTION TO REFUSE TO DEAL WITH YOUR ACCESS APPLICATION

OFFICIAL

[REDACTED]  
By Email: [REDACTED]

Dear [REDACTED]

**NOTICE OF INTENTION TO REFUSE TO DEAL WITH YOUR ACCESS APPLICATION**

I am writing to advise you that I intend to refuse to deal with your access application made under the *Freedom of Information Act 2016 (FOI Act)*, dated 13 May 2021 and received by the Office of the Legislative Assembly on the same day.

This application requested access to:

- Information regarding Legislative Assembly member James Milligan's use of an email list to write to supporters he was re-establishing his business after the 2020 territory election
- any correspondence between the Office of the Clerk and Mr Milligan, his office or staff regarding the email list; and
- any correspondence or advice the Office of the Clerk has provided to members of the assembly regarding the use of email lists since the election of the 9th assembly.

*Authority*

I am an information officer appointed by the Director-General of the Office of the Legislative Assembly to make decisions about access to government information, in accordance with section 18 of the FOI Act.

*Why I intend to refuse your request*

I intend to refuse to deal with the part of your access application that relates to *'Information regarding Legislative Assembly member James Milligan's use of an email list to write to supporters he was re-establishing his business after the 2020 territory election'*, under section 43 of the FOI Act, because the access application is expressed to relate to government information of a kind that is taken to be contrary to the public interest to disclose under Schedule 1 of the FOI Act.

Schedule 1 Information disclosure of which would be contempt of court or Legislative Assembly etc.

1.1 Information the disclosure of which would, apart from this Act and any immunity of the Crown ---

- (c) infringe the privileges of –
  - (i) the Legislative Assembly

The FOI Act applies to certain of the Legislative Assembly's information but is restricted to administrative and similar information. It does not extend to information that attracts parliamentary privilege as set out in the *Parliamentary Privileges Act 1987* and which includes *'all words spoken and acts done in the course of, or for the purposes of or incidental to, the transacting of the business of a House or of a committee...'* (s16)

The information that I have located that falls within this part of your request is information attracts parliamentary privilege and disclosure would therefore infringe the privileges of the Legislative Assembly.

I have located no documents relate to the remaining parts of your request:

- *any correspondence between the Office of the Clerk and Mr Milligan, his office or staff regarding the email list; and*
- *any correspondence or advice the Office of the Clerk has provided to members of the assembly regarding the use of email lists since the election of the 9th assembly.*

*What happens next?*

Before I make a decision, you have an opportunity to provide me with an amended application or any additional information relevant to your application that would address the concerns with your Ombudsman FOI Guidelines Dealing with access applications (February 2020) application outlined above. If you do so, I recommend that you address my reasons outlined above for intending to refuse your application.

If you decide not to provide any further information or submit a revised application by 9 September 2021, your access application will be taken as withdrawn.

I have 20 working days to give you a decision about your access application however, the time taken to clarify the access application now is not included in the 20 working days time period.

*Further assistance*

If you have any questions in relation to your access application, please contact me on 6205 0171 or by email.

Yours sincerely

**Julia Agostino**

Deputy Clerk and Serjeant-at-Arms of the Legislative Assembly for the Australian Capital Territory  
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