



Australian Government
Attorney-General's Department

Our ref: FOI24/031; CM24/1086

9 February 2024

[REDACTED]
[REDACTED]

Dear [REDACTED]

Freedom of Information Request FOI24/031 – Decision letter

The purpose of this letter is to give you a decision about your request for access to documents under the *Freedom of Information Act 1982* (the FOI Act) which you submitted to the Attorney-General's Department (the department).

Your request

On 10 January 2024, you emailed the Office of the Attorney-General (the office) requesting access to:

- *A certified copy of the exemption instrument/certificate/notice/document that exempts government departments and government corporations and government funded corporations from complying with the Bills of Exchange Act 1909.*
- *A list of those government departments and government corporations and government funded corporations and any other corporations that are exempt from the Bills of Exchange Act 1909.*

On 12 January 2024, the department acknowledged your request and notified you that the request had been transferred from the office to the department pursuant to s 16 of the FOI Act.

A decision in relation to your request is due on 9 February 2024.

My decision

I am an officer authorised under section 23(1) of the FOI Act to make decisions in relation to freedom of information requests made to the department.

In making my decision, I have taken the following into account:

- the terms of your request,
- advice provided to me by officers with responsibility for matters to which your request relates,
- the provisions of the FOI Act, and
- the FOI Guidelines issued by the Australian Information Commissioner (the Guidelines).

Section 24A of the FOI Act relevantly provides that an agency or Minister may refuse a request for access to a document if all reasonable steps have been taken to find the document and the agency is

satisfied that the document:

- is in the agency's possession but cannot be found, or
- does not exist.

When considering a decision to refuse access under s 24A of the FOI Act, the Guidelines relevantly provide at paragraph 3.89 that an agency or minister should take comprehensive steps to locate documents, having regard to:

- the subject matter of the documents,
- the current and past file management systems and the practice of destruction or removal of documents,
- the individuals within an agency or minister's office who may be able to assist with the location of documents, and
- the age of the documents.

To identify the documents for your request, I arranged for staff likely to be able to identify documents to undertake comprehensive searches of relevant departmental information holdings. In particular, a departmental staff member with responsibility for processing FOI requests interrogated the department's records management system using search terms which were developed with reference to the information provided in the scope of your request. Despite these efforts, no relevant documents were identified.

As a result, I am satisfied that all reasonable steps to locate the documents to which you have sought access have been taken. **I am also satisfied that no documents within the scope of your request were found within the department's records holdings.** I have therefore decided to refuse access pursuant to s 24A of the FOI Act.

Additional information relating to your request is provided below. Please note, this information is not legal advice: the department does not provide FOI applicants with legal advice.

Additional information

The right of access under the FOI Act is to existing documents held by government agencies. It is not a means of having questions answered, requesting explanations, or having suppositions proved or otherwise. A s24A decision regarding access documents indicates that no documents captured in the scope of your request are held by the department.

There are no documents that exempt government departments, government corporations and government funded corporations from complying with the *Bills of Exchange Act 1909*, which is why the department holds no such documents.

If you have specific questions regarding the operation of legislation, you may wish to seek your own legal advice.

Review Rights

Your review rights under the FOI Act are set out at **Attachment A** to this letter.

If you wish to discuss this decision, the FOI case officer for this matter is Rebekah, who can be reached on (02) 6141 6666 or by email to foi@ag.gov.au.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Philip Tracey', with a long horizontal flourish extending to the right.

Philip Tracey
Assistant Director
Freedom of Information and Privacy

Attachments

Attachment A: Review rights



Australian Government
Attorney-General's Department

Attachment A - FOI Review rights

If you are dissatisfied with the decision of the Attorney-General's Department (the department), you may apply for internal review or Information Commissioner review of the decision.

The department encourages applicants to consider seeking internal review as a first step as it may provide a more rapid resolution of your concerns.

Internal review

Under s 54 of the *Freedom of Information Act 1982* (FOI Act), applications for internal review must be made in writing within 30 days of the date of the decision letter, and be lodged in one of the following ways:

email: foi@ag.gov.au

post: Freedom of Information and Privacy Section
Strategy and Governance Branch
Attorney-General's Department
3-5 National Circuit BARTON ACT 2600

An officer of the department other than the officer who made the original decision will complete the internal review within 30 days of receipt of your request.

Providing reasons you believe internal review of the decision is necessary will facilitate the completion of the internal review.

Information Commissioner review

Under s 54L of the FOI Act, you may apply to the Australian Information Commissioner to review my decision. An application for review by the Information Commissioner must be made in writing within 60 days of the date of the decision letter, and be lodged in one of the following ways:

online: https://forms.business.gov.au/smartforms/servlet/SmartForm.html?formCode=ICR_10

email: foidr@oaic.gov.au

post: GPO Box 5218 Sydney NSW 2001

More information about Information Commissioner review is available on the Office of the Australian Information Commissioner website at <https://www.oaic.gov.au/freedom-of-information/your-freedom-of-information-rights/freedom-of-information-reviews/information-commissioner-review>.