



**Australian Government**  
**Attorney-General's Department**

Our ref: FOI23/223; CM23/10139

19 May 2023

Gareth Smith  
By email: [foi+request-10185-d14705b6@righttoknow.org.au](mailto:foi+request-10185-d14705b6@righttoknow.org.au)

Dear Gareth

**Freedom of Information Request FOI23/223– 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 20 April 2023, you requested access to:

- 1. Australian government periodic reports referred to under Article VII of the International Convention on the Suppression and Punishment of the Crime of Apartheid.*
- 2. All documents relating to Articles III and IV of the International Convention on the Suppression and Punishment of the Crime of Apartheid and Australia's relationship with Israel, including visits to Australia by Israeli politicians and Australian citizens serving in the Israeli Defence Force.*

On 2 May 2023, the department acknowledged your request.

A decision in relation to your request is due on 22 May 2023.

**My decision**

I am an officer authorised under s 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 from relevant areas of the department,
- 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, paragraph 3.89 of the Guidelines state that an agency or minister should take comprehensive steps to locate documents, having regard to:

- the subject matter of the documents,

- the agency's 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 Freedom of Information 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.

Having regard to the above, I am satisfied that reasonable steps to locate the documents to which you have sought access were undertaken. I am also satisfied that no documents within 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.

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 Radia, who can be reached on (02) 6141 6666 or by email to [foi@ag.gov.au](mailto:foi@ag.gov.au).

Yours sincerely



**Kellie Henning**  
Assistant Director  
Freedom of Information

**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](mailto: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](https://forms.business.gov.au/smartforms/servlet/SmartForm.html?formCode=ICR_10)

email: [foidr@oaic.gov.au](mailto: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>.