



**Our reference:** FOIREQ23/00086

**Attention:** Watson Norwood

**By email:** [foi+request-10246-772a02e5@righttoknow.org.au](mailto:foi+request-10246-772a02e5@righttoknow.org.au)

Dear Watson Norwood,

## Freedom of Information Request – FOIREQ23/00086

I refer to your request for access to documents made under the *Freedom of Information Act 1982* (Cth) (the FOI Act). Your Freedom of Information request (FOI request) was received by the Office of the Australian Commissioner (OAIC) on 7 May 2023.

I am writing to inform you of my decision.

Pursuant to section 17 of the FOI Act, I have made a decision to create one document in response to your request. I have made a decision to grant full access to the document.

In accordance with section 26(1)(a) of the FOI Act, the reasons for my decision and findings on material questions of fact are provided below.

### Background

On 7 May 2023, the OAIC received your FOI request in which you sought access to the following information:

*I am writing to make a request under the Freedom of Information Act for a complete copy of the departments' Freedom of Information (FOI) logs for the period 2013-2023, including any secondary departments controlled by the agency.*

*I request that this is provided as a document and not a simple redirect to the agency website as I am of the view that your online disclosure logs do not actively reflect your FOI requests that you have received in this period.*

*I would appreciate it if you could provide me with this information in an electronic format, such as a PDF or spreadsheet, if possible.*

*If there are any fees associated with fulfilling this request, please let me know in advance so that I can consider my options.*

On 24 May 2023, the OAIC emailed you acknowledging receipt of your FOI request and sought clarification as to the scope of your FOI request. In the email to you, the OAIC said:

I note in your request you mention “Freedom of Information (FOI) Logs”. Accordingly, I assume that you may be seeking access to a report identifying:

1. A complete list of FOI requests or decisions received by the OAIC; and/or
2. what information are you seeking access to within the ‘FOI log’

I would appreciate a response to my questions above by close of business Friday, 26 May 2023.

If I do not hear from you by this date I will assume that you do not object to this interpretation of the scope of your FOI request and will continue to process the request according to this interpretation.

We did not receive a response from you by the required timeframe. Accordingly, we have interpreted the scope of your request to be for:

“...a report identifying:

1. A complete list of FOI requests or decisions received by the OAIC.”

#### Request Timeframe

Your request was made on 7 May 2023.

This means that a decision on your request is due by 6 June 2023.

#### **Decision**

I am an officer authorised under section 23(1) of the FOI Act to make decisions in relation to FOI requests on behalf of the OAIC.

Subject to the following provisions of the FOI Act, I have made a decision to create and grant full access to one document.

## Searches Undertaken

The FOI Act requires that all reasonable steps have been taken to locate documents within scope of an FOI request.

The following line area of the OAIC conducted reasonable searches for documents relevant to your request:

- Business Analytics Data and Reporting

Searches were conducted across the OAIC's various document storage systems including:

- the OAIC's case management system - Resolve

Having consulted with the relevant line areas and undertaken a review of the records of the various search and retrieval efforts, I am satisfied that a reasonable search has been undertaken in response to your request.

## Reasons for decision

### Material taken into account

In making my decision, I have had regard to the following:

- your FOI request dated 7 May 2023
- the FOI Act, in particular sections 3, 17, 22, 24A and 26 of the FOI Act
- the Guidelines issued by the Australian Information Commissioner under section 93A of the FOI Act to which regard must be had in performing a function or exercising a power under the FOI Act (FOI Guidelines)
- consultation with a line area of the OAIC in relation to your request

### Requests involving the use of computers (s 17)

Under section 17 of the FOI Act, if an FOI request is made for a document that could be produced by using a computer ordinarily available to the agency for retrieving or collating stored information, an agency is required to deal with the request as if it was a request for written documents to which the FOI Act applies.

The FOI Guidelines [at 3.204] explain that section 17 may require an agency to produce a written document of information that is stored electronically and not in a discrete written form, if it does not appear from the request that the applicant wishes to be provided with a computer tape or disk on which the information is recorded. The obligation to produce a written document arises if:

- the agency could produce a written document containing the information by using a computer or other equipment that is ordinarily available' to the agency for retrieving or collating stored information (section 17(1)(c)(i)), or making a transcript from a sound recording (section 17(1)(c)(ii)); and
- producing a written document would not substantially and unreasonably divert the resources of the agency from its other operations (section 17(2)).

If those conditions are met, the FOI Act applies as if the applicant had requested access to the written document and it was already in the agency's possession.

As we have interpreted the scope of your request to be for "...a report identifying: A complete list of FOI requests or decisions received by the OAIC", the Business Analytics Data and Reporting Team advised that the material sought is not available in a discrete form but instead is able to be produced in a written document through the use of a computer.

In light of this, a document has been created under section 17 in response to your request and is included in the schedule of documents attached. The report details a complete list of FOI requests received by the OAIC, the date they were received, and the decision on access. Please note that where the decision on access has not been provided, these FOI requests are currently on foot with the OAIC and are yet to have a decision made.

### **Disclosure log decision**

Section 11C of the FOI Act requires the OAIC to publish documents released under the FOI Act on the OAIC's disclosure log within 10 days of release, except if they contain personal or business information that would be unreasonable to publish.

I have made a decision to publish the document subject to your request on the OAIC's disclosure log.

## **Release of documents**

The document is enclosed for release. The documents are identified in the **attached** schedule of documents.

Please see the following page for information about your review rights.

Yours sincerely,

**Jessica Summerhill**

A/g Senior Lawyer

6 June 2023

## **If you disagree with my decision**

### **Internal review**

You have the right to apply for an internal review of my decision under Part VI of the FOI Act. An internal review will be conducted, to the extent possible, by an officer of the OAIC who was not involved in or consulted in the making of my decision. If you wish to apply for an internal review, you must do so in writing within 30 days. There is no application fee for internal review.

If you wish to apply for an internal review, please mark your application for the attention of the FOI Coordinator and state the grounds on which you consider that my decision should be reviewed.

Applications for internal reviews can be submitted to:

Office of the Australian Information Commissioner  
GPO Box 5288  
SYDNEY NSW 2001

Alternatively, you can submit your application by email to [foi@oaic.gov.au](mailto:foi@oaic.gov.au), or by fax on 02 9284 9666.

### **Further review**

You have the right to seek review of this decision by the Information Commissioner and the Administrative Appeals Tribunal (AAT).

You may apply to the Information Commissioner for a review of my decision (IC review). If you wish to apply for IC review, you must do so in writing within 60 days. Your application must provide an address (which can be an email address or fax number) that we can send notices to, and include a copy of this letter. A request for IC review can be made in relation to my decision, or an internal review decision.

It is the Information Commissioner's view that it will usually not be in the interests of the administration of the FOI Act to conduct an IC review of a decision, or an internal review decision, made by the agency that the Information Commissioner heads: the OAIC. For this reason, if you make an application for IC review of my decision, and the Information Commissioner is satisfied that in the interests of administration of the Act it is desirable that my decision be considered by the AAT, the Information Commissioner may decide not to undertake an IC review.

Section 57A of the FOI Act provides that, before you can apply to the AAT for review of an FOI decision, you must first have applied for IC review.

Applications for IC review can be submitted online at:

[https://forms.business.gov.au/smartforms/servlet/SmartForm.html?formCode=ICR\\_10](https://forms.business.gov.au/smartforms/servlet/SmartForm.html?formCode=ICR_10)

Alternatively, you can submit your application to:

Office of the Australian Information Commissioner  
GPO Box 5288  
SYDNEY NSW 2001

Or by email to [foidr@oaic.gov.au](mailto:foidr@oaic.gov.au), or by fax on 02 9284 9666.

### **Accessing your information**

If you would like access to the information that we hold about you, please contact [foi@oaic.gov.au](mailto:foi@oaic.gov.au). More information is available on the Access our information page on our website.