



Australian Government

Australian Public Service Commission

Our reference: LEX 660

Luis Verhuizen

By email: foi+request-10642-36d0ddbe@righttoknow.org.au

Dear Applicant

Freedom of Information Internal Review Request – LEX 660

1. I am writing about your request for internal review, dated 28 September 2023, regarding a decision made by the Australian Public Service Commission (**Commission**) under the *Freedom of Information Act 1982 (FOI Act)*.

Background

2. On 30 August 2023, you requested the following documents from the Commission under the FOI Act:

“I request any and all documents sent or received by, or prepared for, or prepared by, or made use of by each of:

- a) Gordon de Brouwer,
- b) Peter Woolcott,
- c) Helen Wilson,
- d) Rina Bruinsma,
- e) Grant Lovelock,
- f) Jo Talbot,
- g) Charmaine Sims,

h) any occupants, whether in a substantive or acting capacity, of the role of Assistant Commissioner, Integrity, Performance and Employment policy, in respect of inadequate investigations, or in respect of reports of inadequate investigations, relating to misconduct in the Australian Public Service, or any kinds of unlawful conduct by officials in the Australian Public Service (including agency heads and statutory office holders), from 1 January 2020 to 29 August 2023.”

3. On 6 September 2023, the Commission requested you consider refining the scope of your request. You did not agree to refine the scope.
4. On 27 September 2023, the FOI decision maker, Melanie McIntyre made a decision to refuse access to documents on grounds that all reasonable steps have been taken to find documents within scope of the request, and that no such documents meeting the description requested can be found.



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5. On 28 September 2023, you sought an internal review of Ms McIntyre's decision.

Decision

6. I am authorised under subsection 23(1) of the FOI Act to make FOI decisions.
7. I am satisfied that all reasonable steps have been taken to find documents within scope of your request, and that no such documents falling within scope were found to exist.
8. I therefore **affirm** Ms McIntyre's earlier decision by refusing your request for access to documents under section 24A of the FOI Act.

Reasons for decision

9. Subsection 24A(1) of the FOI Act provides:

(1) An agency or Minister may refuse a request for access to a document if:

(a) all reasonable steps have been taken to find the document; and

(b) the agency or Minister is satisfied that the document:

- (i) is in the agency or Minister's possession but cannot be found; or*
(ii) does not exist.

10. The Office of the Australian Information Commissioner (**OAIC**) has issued guidelines under section 93A of the FOI Act. At paragraphs 3.88 to 3.93 of these guidelines, the OAIC provides guidance as to the meaning of the term 'all reasonable steps' for the purposes of subsection 24A(1) of the FOI Act. In this case these steps included searches of document management systems and emails.

Contacts

11. If you require clarification on matters in this letter, please contact the Commission's FOI Officer by email at foi@apsc.gov.au.

Review rights

12. You are entitled to seek review of this decision. Your review rights are set out at **Attachment A**.

Yours sincerely



Australian Government
Australian Public Service Commission

Ms Amanda Harmer
Authorised FOI decision maker
27 October 2023

Ms Amanda Harmer

As part of a full review of the Commission's operations, the Commission has conducted a review of its internal processes and procedures. This review was completed in 2022 and the findings are set out in the Commission's Annual Report 2022-23.

The Commission is committed to transparency and accountability in its operations. This includes providing clear and timely information to the public about its activities and decisions. The Commission's website provides a range of information about its operations and the services it provides.

The Commission's operations are subject to regular audits and reviews. This includes audits by the Auditor-General and reviews by the Commission's internal audit function. The Commission is also subject to external scrutiny from the media and the public.

The Commission's operations are also subject to the Freedom of Information Act 1982. This Act provides a framework for the disclosure of government information to the public. The Commission is committed to providing access to its information in accordance with the Act.

The Commission's operations are also subject to the Australian Information Access Act 2010. This Act provides a framework for the disclosure of information held by government agencies. The Commission is committed to providing access to its information in accordance with the Act.

The Commission's operations are also subject to the Australian Information Privacy Act 2010. This Act provides a framework for the protection of personal information held by government agencies. The Commission is committed to protecting the personal information it holds in accordance with the Act.



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ATTACHMENT A

Rights of Review

Asking for a full explanation of a Freedom of Information decision

If you are dissatisfied with this decision, you may seek external review. Before you seek review of a Freedom of Information (FOI) decision, you may contact us to discuss your request and we will explain the decision to you.

Applying for external review by the Australian Information Commissioner

If you do not agree with the internal review decision, you can ask the Australian Information Commissioner to review the decision. You have 60 days to apply in writing for a review by the Office of the Australian Information Commissioner (OAIC) from the date you received this letter or any subsequent internal review decision.

You can lodge your application:

Online: www.oaic.gov.au
Post: Australian Information Commissioner
GPO Box 5218
SYDNEY NSW 2001
Email: enquiries@oaic.gov.au

The OAIC encourage applicants to apply online. Where possible, to assist the OAIC you should include your contact information, a copy of the related FOI decision and provide details of your reasons for objecting to the decision.

Complaints to the Information Commissioner and Commonwealth Ombudsman

Information Commissioner

You may complain to the Information Commissioner concerning action taken by an agency in the exercise of powers or the performance of functions under the FOI Act. There is no fee for making a complaint. A complaint to the Information Commissioner must be made in writing. The Information Commissioner's contact details are:

Telephone: 1300 363 992
Website: www.oaic.gov.au

Commonwealth Ombudsman

You may complain to the Ombudsman concerning action taken by an agency in the exercise of powers or the performance of functions under the FOI Act. There is no fee for making a complaint. A complaint to the Ombudsman may be made in person, by telephone or in writing. The Ombudsman's contact details are:

Phone: 1300 362 072
Website: www.ombudsman.gov.au