



**Australian Government**  

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**Australian Public Service Commission**

NTS

By email: [foi+request-10673-c78a76b9@righttoknow.org.au](mailto:foi+request-10673-c78a76b9@righttoknow.org.au)

Our reference: LEX 640

Dear Applicant

***Freedom of Information request***

1. I am writing about your request dated **8 September 2023** for access to documents under the *Freedom of Information Act 1982* (FOI Act) held by the Australian Public Service Commission (Commission).
2. I am an authorised officer under subsection 23(1) of the FOI Act able to make decisions in relation to Freedom of Information (FOI) requests.

***Your request***

3. You requested access to documents in the following terms:

*“Under the FOI Act, I seek a copy of any document prepared by the APSC from 1 January 2023 onwards, and provided to any of the following:*

- i) media organisations,*
- ii) Commonwealth agency heads, or*
- iii) lobby groups such as the IPA or the Centre for Independent studies in relation to the working conditions of the non-SES APS employees.”*

***My decision***

4. As I advised you on **27 September 2023**, I decided that a practical refusal reason existed for your FOI request under section 24AA of the FOI Act and initiated a ‘request consultation process’. In that letter I requested you withdraw your request, revise it or tell us you do not wish to revise it.

5. You wrote to me on **28 September 2023**, where you provided submissions and agreed to re-scope parts of your request.

6. You narrowed down the scope of your request to:

*“A copy of any document prepared by the APSC from 1 January 2023 onwards, and provided to:*

*i) media organisations, or*

*ii) the Institute of Public Affairs (ie. [www.ipa.org.au](http://www.ipa.org.au))*

*in relation to the working conditions of the non-SES APS employees.*

*I’m willing to exclude from my request, the personal information of any person who isn’t, or wasn’t at the relevant time, a Commonwealth public servant or a statutory officer. Noting paragraphs 6.153 and 6.154 of the FOI Guidelines issued under s.93A of the FOI Act, there’ll therefore be no need to consult with any person whose personal information is included in a relevant document.”*

7. I am writing to you now to advise that following a request consultation process, I am satisfied that a practical refusal decision still exists. I am therefore refusing your request under paragraph 24(1)(b) of the FOI Act.

8. In making this decision I have had regard to:

- the terms of your request.
- the terms of your submissions in response to the request consultation process.
- the FOI Act; and
- the FOI Guidelines issued by the Australian Information Commissioner.

## ***Reasons***

8. I am of the view that processing your request would be a substantial diversion of the Commission's resources because:

- identifying, locating and or collating documents would be onerous as it is estimated that the volume of documents found will be significant, for the timeframe you have specified in your request.

9. I am also of the view that processing your request would be an unreasonable diversion of the Commission's resources because:

- the Commission is a portfolio agency, with limited staffing resources available;
- the Commission does not have, nor has ever previously required, any permanent dedicated FOI staffing resources as it has historically received a low number of FOI requests that are capable of being managed within the existing resources;
- the Commission has limited capacity to obtain temporary resourcing in considering the impact of processing your request; and
- the Commission is currently working on a number of priority matters and processing your request would unreasonably divert resources that would otherwise be dedicated to

performing the essential operations of the agency, including in relation to the working conditions of non-SES APS employees.

### ***Review rights***

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

### ***Contacts***

12. If you require clarification on matters in this letter please contact the Commission's FOI Officer by email at [foi@apsc.gov.au](mailto:foi@apsc.gov.au).

Yours sincerely

A handwritten signature in black ink, appearing to read 'Melanie McIntyre', with a long horizontal line extending to the right.

Melanie McIntyre  
Authorised FOI decision maker  
6 October 2023

### Rights of Review

#### Asking for a full explanation of a Freedom of Information decision

If you are dissatisfied with this decision, you may seek 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.

#### Seeking review of a Freedom of Information decision

If you still believe a decision is incorrect, the *Freedom of Information Act 1982* (the FOI Act) may give you the right to apply for a review of the decision. Under sections 54 and 54L of the FOI Act, you can apply for a review of an FOI decision by seeking:

1. an internal review by an different officer of the Australian Public Service Commission; and/or
2. external review by the Australian Information Commissioner.

There are no fees applied to either review option.

#### Applying for a review by an Internal Review Officer

If you apply for internal review, a different decision maker to the agency delegate who made the original decision will carry out the review. The Internal Review Officer will consider all aspects of the original decision and decide whether it should change. An application for internal review must be made in writing within 30 days of receiving this letter to:

**Email:** [foi@apsc.gov.au](mailto:foi@apsc.gov.au)

**Post:** The FOI Officer  
Australian Public Service Commission  
B Block, Treasury Building  
GPO Box 3176  
Parkes Place West  
PARKES ACT 2600

You do not need to fill in a form. However, it is a good idea to set out any relevant submissions you would like the Internal Review Officer to further consider, and your reasons for disagreeing with the decision.

#### Applying for external review by the Australian Information Commissioner

If you do not agree with the original FOI decision or 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](http://www.oaic.gov.au)

Post: Australian Information Commissioner  
GPO Box 5218  
SYDNEY NSW 2001

Email: [enquiries@oaic.gov.au](mailto: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](http://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](http://www.ombudsman.gov.au)