



Administrative Appeals Tribunal

FOI ref:2024/0012

14 February 2024

Gene

Email: foi+request-11029-37d3c0ff@righttoknow.org.au

Dear Gene

Notice of decision for Freedom of Information Request no. 2022/0256

The purpose of this letter is to give you a decision about access to documents that you have requested under the *Freedom of Information Act 1982 (FOI Act)*.

Summary

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

You lodged an FOI request on 16 January 2024 for access to the following:

1. Any documents, including but not limited to emails, letters, meeting minutes, notes, or reports regarding Jan Redfern's role as a compliance consultant to the Australian CFD Forum in or around February 2012.
2. Any documents relating to whether a potential conflict of interest concerning Ms Redfern's role with the Australian CFD Forum was raised or disclosed to the Administrative Appeals Tribunal around February 2012.
3. Any written policies, procedures or guidelines concerning disclosure and management of potential conflicts of interest by senior members of the AAT around February 2012.

I have identified that clauses 2.3 and 2.4 of the Members' Handbook 2010 version fall within the scope of your request number 3 above.

I have not identified any document that fall within the scope of request number 1 or 2.

Decision

I have decided to:

- Grant full access to the document relating to your request number 3: and
- Refuse access to documents relating to your request numbers 1 and 2 under s.24A of the FOI Act.

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

- Your FOI request and the content of the document that fall within the scope of your request;

- The FOI Act, in particular s.24A; and
- The guidelines issued by the Australian Information Commissioner under s.93A of the FOI Act (**FOI Guidelines**).

Reasons for decision to refuse access - Section 24A of the FOI Act

Section 24A of the FOI Act provides that, after all reasonable steps have been taken to find the documents, access to documents may be refused if the documents do not exist or cannot be found.

In relation to your requested documents under 1 and 2, I have liaised with Ms Jan Redfern, the Tribunal's former Chief Legal Officer, the Director of Legal and Policy, the Senior People & Culture Officer and the Executive Adviser to the President, who has access to records from former Presidents' chambers. They all have confirmed that no documents exist that fall within request 1 or 2. That is, there is no record held in relation to Ms Jan Redfern's role as compliance consultant to the Australian CFD Forums in or around 2012.

I consider that all reasonable steps have been taken to find the documents you seek, and I am therefore satisfied that the documents do not exist. Accordingly, I refuse access to the documents under section 24A of the FOI Act.

Additional information

[Section 11 of the Administrative Appeals Act 1975](#) contains the legislative provisions relevant to outside employment for members of the Tribunal and differentiates between full-time and part-time members. We advise that Ms Jan Redfern was appointed on a part-time basis to the Tribunal between 2009 to 2014.

Your review rights

Information about how you can apply for a review of this decision or complain about how we have dealt with this matter is set out in the attached fact sheet, FOI 2.

If you have any questions about this decision, please contact me on (02) 9276 5507 or at foi@aat.gov.au.

Yours sincerely,



Loga Roshan

Authorised FOI Officer (APS 6)

Attachments

FOI 2 – Information about reviews and complaints under the Freedom of Information Act
Released document

Information about reviews and complaints under the Freedom of Information Act

What should I do prior to applying for internal review or contacting the Office of the Australian Information Commissioner?

Before you apply for an internal review or contact the Office of the Australian Information Commissioner, we recommend that you telephone the officer who made the FOI decision. It is often possible to resolve concerns or answer your questions using this approach and, if not, the officer will be able to assist you in applying for review.

How do I apply for internal review to the AAT?

You can apply to us for an internal review of the FOI decision. The application for internal review must be made within 30 days or such further period as we allow, after the day the decision is notified to you. To apply for an internal review you must do so in writing. You may also wish to explain why you are not satisfied with the decision. A different and more senior officer authorised under the *Freedom of Information Act 1982* (the FOI Act) will conduct the internal review and make a new decision within 30 days after receipt of your application.

If you have already applied for internal review and want to seek a further review of that decision, you will need to apply to the Australian Information Commissioner.

How do I apply for review to the Australian Information Commissioner?

You may also apply directly to the Australian Information Commissioner for review of the FOI decision. The application for review must be made within 60 days after the day notice of the decision was given. An application for review must be in writing, include details of how notices in relation to the review are to be sent to you and include a copy of the decision. You may also wish to explain why you are not satisfied with the decision. An online application form is available on the Office of the Australian Information Commissioner's website, details of which are provided below.

What if I want to make a complaint about the handling of a Freedom of Information request?

If you have a complaint about the way in which we have processed your request for access under the FOI Act you can ask the Australian Information Commissioner to investigate. An online complaint form is available on the Office of the Australian Information Commissioner's website, details of which are provided below.

Where can I find further information or contact details for the Office of the Australian Information Commissioner?

Further information is available on the Office of the Australian Information Commissioner's website at www.oaic.gov.au and you can contact the office on 1300 363 992 or by email at enquiries@oaic.gov.au.