



Our reference: 15/116502

16 July 2015

Luke Cullen

By email: foi+request-1104-53219a0c@righttoknow.org.au

Dear Mr. Cullen,

Freedom of Information Request 15-14

I refer to your request for access to documents relating to ACC/ministerial correspondence under the *Freedom of Information Act 1982*. This is a decision made under the *Freedom of Information Act 1982* (the FOI Act) in relation to that request.

Background to the Decision

You have requested documents relating to:

All correspondence between Minister for Health Sussan Ley, and the ACC in regards to the formation of the new methamphetamine taskforce creating a strategy for the drug ice.

Between 1 January 2015 and 1 April 2015 (inclusive)

Your request was received on Friday 12 June 2015. An acknowledgement letter was sent out to you on that same day. That letter informed you that a decision was due to you by Monday 13 July 2015. On Friday 10 July the ACC sent you a request for an extension of time to Friday 17 July 2015. On Tuesday 14 July you agreed to the extension sought. However, as this agreement was provided after the due date for the decision, the matter has entered a deemed refusal period. In order to overcome this, ACC has made an application to the OAIC under s15AC of the FOI Act to permit the decision date to be extended to Friday 17 July.

No response has been received from the OAIC to the s15AC request. As it is incumbent on an agency to continue processing an FOI request regardless of having entered the deemed refusal period, the ACC has processed and now finalised your request.

Authority and Materials Considered

I am authorised under section 23 of the FOI Act to make a decision concerning the information you have requested access to.

In reaching my decision I have taken into consideration:

- the relevant provisions of the FOI Act;
- the contents of the relevant documents;
- relevant guidelines issued by the Office of the Australian Information Commissioner; and
- relevant Tribunal and Federal Court decisions concerning the operation of the FOI Act.

Summary of Decision

I have refused your request for access to documents because the documents you have sought access to cannot be found or do not exist.

Reasons for Decision

Under section 24A of the FOI Act an agency may refuse 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 that the document does not exist.

The ACC has taken comprehensive steps to locate the document, having regard to:

- the subject matter of the documents
- the current and past file management systems and the practice of destruction or removal of documents
- the records management systems in place
- the individuals within the ACC who might have been able to assist with the location of the documents, and
- the age of the documents.

The ACC undertook extensive searches of its electronic holdings. These searches were undertaken by both the Freedom of Information Coordinator and the Information Management Team.

I consulted with the ACC's Ministerial and Parliamentary Services officer as to whether or not they were aware of, or had any record of, the documents you have requested access to. They held no record of any such correspondence being sent or received.

I further consulted with the Office of the ACC CEO to confirm that no correspondence was sent directly to or from the CEO to the Minister for Health in relation to the documents requested. The Office of the CEO confirmed that no such documents had been sent or received.

I consider that reasonable steps have been taken to locate the documents that are the subject of your request. I am satisfied that the documents either cannot be found or do not exist.

Your Review Rights

If you are dissatisfied with this decision you can apply for internal or Information Commissioner review. You do not have to apply for internal review before seeking Information Commissioner review.

Internal Review

You may seek internal review by making an application in writing to the ACC within 30 days of being notified of this decision. A written application for a review should be sent to the FOI officer at foi@crimecommission.gov.au, or by post to:

FOI Coordinator
Australian Crime Commission
GPO Box 1936
Canberra ACT 2601

Information Commissioner Review

Alternatively, you may apply in writing for review by the Information Commissioner. In making your application you need to provide:

- an address for notices to be sent (this can be an email address)
- a copy of this decision.

It would also help if you set out the reasons for review in your application. Requests for review must be in writing and can be made via the website (www.oaic.gov.au), by email at enquiries@oaic.gov.au, or by post at:

Office of the Australian Information Commissioner
GPO Box 2999
Canberra ACT 2601

If you are objecting to a decision to refuse access to documents you must apply to the Information Commissioner within 60 days of being given notice of the decision. You can contact the Information Commissioner by phone on 1300 363 992.

Right to Complain

You may make a complaint to the Information Commissioner about action taken by the ACC in relation to your application. The complaint needs to be in writing and identify the agency against which the complaint is made.

The Information Commissioner may be contacted on 1300 363 992. There is no particular form required to make a complaint, but the complaint should set out the grounds on which you consider the action should be investigated.

Yours sincerely,

Patrick Dale
FOI Delegate