

25 July 2025

Mr Patrick Wright / Peking Pamela

**By email:** [foi+request-13055-841f4e12@righttoknow.org.au](mailto:foi+request-13055-841f4e12@righttoknow.org.au)

Dear Mr Wright

## STATEMENT OF REASONS – ABC FOI 202425-121

I refer to your email sent Friday 18 April 2025 seeking access to:

...Please provide all correspondence and records of other discussions produced and received by the Mediawatch team related to transgender issues.

On Wednesday 30 April 2025, the ABC emailed you to clarify whether you were making a freedom of information request or an informal request as your request did not comply with s 15 of the *Freedom of Information Act* (Cth) 1982 (the **FOI Act**). The ABC asked you to nominate a timeframe for searches as no period of time had been given and clarify whether your request for documents was made under the FOI Act.

On Monday 5 May 2025, the ABC emailed you seeking confirmation that you were receiving emails and advising that your email was not a request that complied with the FOI Act meaning the ABC was not able to process it as a valid freedom of information request. The ABC advised that if you did not respond, the request would be closed as invalid. To date, the ABC has not received any response from you.

The ABC also advised you in that email that the ABC's program material is not subject to an access request under the FOI Act. The ABC did not hear from you in response to this particular request, or in response to other emails sent to you relating to other emails received in the past few months.

Had you made a valid request a decision would have been due by Monday **19 May 2025**.

### Authorisation

I am authorised by the Managing Director of the ABC to make decisions about FOI requests under s 23 of the FOI Act.

### Material taken into account

In making my decision I have considered:

- the scope of your request
- the content of the documents requested
- the FOI Act
- the guidelines issued by the Office of the Australian Information Commissioner under s 93A of the FOI Act (**the Guidelines**)

### Locating and identifying documents

The search for documents included approaching the current Media Watch team.

## Invalid wording – s 15 of the FOI Act

Under s 15 of the FOI Act, a valid request must provide information that is reasonably necessary to enable a responsible officer of the agency to identify the document(s) sought. Your scope did not include a timeframe for searches meaning we were unable to ascertain whether current and or former Media Watch team members (or both) were required to search, and how far back they should search. In addition, without clarity over a timeframe for emails, the request included searches over email accounts of staff members who have left the ABC or were on leave at the time of receiving your email of 18 April 2025.

You have not acknowledged receipt or replied to any emails the ABC has sent over the past few months. We consider you are currently uncontactable.

## Reasons

As a formal decision was not made by the statutory due date, under s 15AC of the FOI Act, the request became a deemed access refusal decision on the last day of the processing period.

If you wish to pursue access to documents, you may:

1. Lodge a new FOI Request by email to: [FOI.ABC@abc.net.au](mailto:FOI.ABC@abc.net.au)
  - a. If you do, please include a fixed timeframe for searches, and
  - b. If possible, nominate names of Media Watch staff who should search for documents.
2. Seek review of the deemed refusal decision by contacting the Office of the Australian Commissioner (OAC) within 60 days of the deemed refusal decision.

## Review rights

Your review rights are set out in **Annexure A**. These rights attach to the deemed refusal decision of Monday **19 May 2025**.

Yours sincerely



**Ali Edwards**  
**Head of Rights Management & FOI Decision Maker**  
[foi.abc@abc.net.au](mailto:foi.abc@abc.net.au)

## **Annexure A – Your Review Rights**

If you are dissatisfied with this decision you can apply for Internal Review of the decision by the ABC, or Information Commissioner (IC) Review. You do not have to apply for Internal Review before seeking IC Review.

### **APPLICATION FOR INTERNAL REVIEW BY THE ABC**

You have the right to apply for an internal review of the decision refusing to grant access to documents. If you apply for an internal review, a delegate who is not the person who made the initial decision will undertake a review and make a fresh decision.

You must apply in writing for an internal review of the decision **within 30 days** of receipt of this letter. No particular form is required, although it helps if you set out the reasons for review in your application and include the decision under review.

Application for a review of the original decision should be emailed to: [foi.abc@abc.net.au](mailto:foi.abc@abc.net.au)

or posted to: **FOI team**  
ABC Legal  
GPO Box 9994  
SYDNEY NSW 2001

### **APPLICATION FOR INFORMATION COMMISSIONER (IC) REVIEW**

Alternatively, you have the right to apply for a review by the Information Commissioner of the decision refusing to grant access to documents. Your application must:

- be in writing;
- be made **within 60 days** of receipt of this letter (the original decision or the internal review decision, or a deemed refusal decision). Note the ABC will not oppose a belated application for review provided it is made within 60 days of missing the formal deadline.
- give details of how notices may be sent to you (eg. an email address); and
- include a copy of the decision for which a review sought.

Please refer to the OAIC website the IC review process page for further information including the online form for applying for IC review:

<https://www.oaic.gov.au/freedom-of-information/your-freedom-of-information-rights/freedom-of-information-reviews>

Alternatively, an application for IC Review can be emailed to: [FOIDR@oaic.gov.au](mailto:FOIDR@oaic.gov.au) or

posted to: Director of FOI Dispute Resolution  
**OAIC**  
GPO Box 5218  
Sydney NSW 2001

The Information Commissioner has a discretion not to undertake a review.

### **COMPLAINTS TO THE INFORMATION COMMISSIONER**

You may complain to the Information Commissioner about action taken by the ABC in the performance of functions, or exercise of powers, under the FOI Act. The Information Commissioner may make inquiries for the purpose of determining whether or not to investigate a complaint.

Complaints can be made in writing to: OAIC - GPO Box 5218  
Sydney NSW 2001