



23 March 2016

Ms Natalie Maslin

Via email: [foi+request-1605-cd48ad66@righttoknow.org.au](mailto:foi+request-1605-cd48ad66@righttoknow.org.au)

Dear Ms Maslin

### **Freedom of information request 2016/57**

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

### **Background to Decision**

You requested access to documents relating to correspondence between ASADA and the AFL on 25 February 2016. Specifically you sought access to:

- *Correspondence between the Australian Sports Anti-Doping Authority and the Australian Football League relating to the suspected use of the banned supplements Peptide Thymosin beta 4, Hexarelin and TA-65 among any AFL players (excluding the Essendon Football Club) between 1 February 2012 and 28 February 2013 (inclusive).*

Your request was received on Thursday 25 February 2016. An acknowledgment of your request was sent to you via email on that same day. That correspondence informed you that a decision was due to be made by Monday 28 March 2016. As that date is a public holiday, a decision is due to you in this matter by **Tuesday 29 March 2016**.

### **Authority and Materials Considered**

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

In reaching my decision I have taken into consideration:

- The relevant provisions of the FOI Act;
- Relevant guidelines issued by the Office of the Australian Information Commissioner; and
- Relevant Tribunal and Federal Court decision 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.

ASADA has taken comprehensive steps to locate the documents you have requested, 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 system in place
- The individuals within ASADA who might be able to assist with the location of the documents; and
- The age of the documents

ASADA has undertaken extensive searches of its electronic holdings and been unable to identify any documents which may fall within the scope of your request. I do not believe that the type of documents which would fall within the scope of your request would exist in hard-copy without an electronic equivalent which would have been captured by the searches.

ASADA's Legal Services Team and ASADA's Melbourne-based Principal Investigator have both been consulted as to whether or not such documents may exist. Both the Legal Services Team and Principal Investigator are not aware of, or have any record of, any such correspondence being either 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 my decision, you may apply for internal review or Information Commissioner review of the decision.

### *Internal review*

Under section 54 of the FOI Act, you may apply in writing to ASADA for an internal review of my decision. The internal review application must be made within 30 days of the date of this letter. If you wish to make such an application please contact [legal@asada.gov.au](mailto:legal@asada.gov.au).

Where possible please attach reasons why you believe review of the decision is necessary. The internal review will be carried out by another officer within 30 days.

*Information Commissioner Review*

Under section 54L of the FOI Act, you may apply to the Australian Information Commissioner to review my decision. An application for review by the Information Commissioner must be made in writing within 60 days of the date of this letter, and be lodged in one of the following ways:

online: <https://forms.business.gov.au/aba/oaic/foi-review/>

email: [enquiries@oaic.gov.au](mailto:enquiries@oaic.gov.au)

post: GPO Box 2999, Canberra ACT 2601

in person: Level 3, 175 Pitt Street, Sydney NSW

More information about Information Commissioner review is available on the Office of the Australian Information Commissioner website. Go to [www.oaic.gov.au/freedom-of-information/foi-reviews](http://www.oaic.gov.au/freedom-of-information/foi-reviews).

**Questions about this decision**

If you wish to discuss this decision, please contact the following officer:

Patrick Dale

Lawyer

[legal@asada.gov.au](mailto:legal@asada.gov.au)

Yours sincerely



Trevor Burgess

National Manager Operations