



**Australian Government**  
**Department of Employment**

'Winter' (Interested Jobseeker)

By email: [foi+request-2087-b0f5e539@righttoknow.org.au](mailto:foi+request-2087-b0f5e539@righttoknow.org.au)

Dear Winter

1. I refer to your email of 30 July 2016 to the Department of Employment (the Department) in which you sought access under the *Freedom of Information Act 1982* (Cth) (FOI Act) to the following document:
  - *The jobactive contract submitted to the Department of Employment / the Government by Job Prospects in 2015.*
2. In the 'subject' line of that email, as well as your further correspondence of 2 August 2016, you clarified the scope of your request with the following descriptions of the document you were seeking:
  - *The document is not the Job Prospects Service Delivery Plan.*
  - *The document is a separate jobactive contract that negates the jobactive Deed.*
  - *The document is a contract with the government that allows Job Prospects to essentially ignore the jobactive Deed and do what they please.*
  - *The document is a contract that Job Prospects claims to have submitted to the government during tenders for the jobactive contract.*
  - *The document is extensive and you have seen brief sections of what you believe to be it on a jobactive consultant's computer.*
  - *Job Prospects has stated that the document is not online or directly accessible for job seekers.*

**Decision on access to the documents**

3. I am authorised to make decisions under section 23 of the FOI Act. My decision regarding your request and the reasons for my decision are set out below.
4. Pursuant to subparagraph 24A(1)(b)(ii) of the FOI Act, I have decided to refuse your request for access to documents on the basis that the documents you are requesting do not exist.

**Reasons for decision**

5. An agency or Minister may refuse a request for access to a document under subsection 24A(1) of the FOI Act if:
  - (a) *all reasonable steps have been taken to find the document; and*
  - (b) *the agency or Minister is satisfied that the document:*
    - (i) *is in the agency's or the Minister's possession but cannot be found; or*
    - (ii) *does not exist.*

6. In your initial request of 30 July 2016 you described the document as a contract submitted to the Department by Job Prospects, separate to and negating the jobactive Deed, which outlined the way Job Prospects would assist job seekers receiving Newstart Allowance. In the subject line of that email you also stated that the document was a contract that negates the *jobactive* Deed.
7. On 2 August 2016, in response to your initial request, the Department suggested that the document you were seeking may have been the *Job Prospects Service Delivery Plan*, and provided you with a link to that document on the Job Prospects website.
8. On the same day, you sent correspondence to the Department informing us that this was not the document you were seeking. You clarified that the document was, among other things, an actual contract with the government which allows Job Prospects to 'essentially ignore' the *jobactive* Deed.
9. I have been advised by senior departmental officers that the Department does not hold any documents within the scope of your request. Appropriate searches for documents within the scope of your request have been undertaken by the Department and its contracted service provider, and these searches have not identified any material in the possession of the Department.
10. I have therefore decided to refuse your request pursuant to subparagraph 24A(1)(b)(ii) of the FOI Act on the basis that the Department has taken all reasonable steps to find documents falling within the scope of your request, and I am satisfied that those documents do not exist.
11. The evidence upon which I have based my decision is:
  - correspondence received from you on 30 July 2016 and 2 August 2016, outlining the particulars of your request;
  - consultations with relevant officers regarding the information held by the Department and the searches undertaken by them;
  - the FOI Act; and
  - the guidelines issued by the Australian Information Commissioner under section 93A of the FOI Act.
12. I have enclosed information about your rights of review under the FOI Act at **Attachment A**.
13. Should you have any questions, please contact me via email at [foi@employment.gov.au](mailto:foi@employment.gov.au)

Yours sincerely



Oliver Shepherd  
Government Lawyer  
Information Law Team  
Information Law, Practice Management and Corporate Advising Branch

26 August 2016

## Attachment A - Your rights of review

### Internal Review

Section 54 of the *Freedom of Information Act 1982* (FOI Act) gives you the right to apply for an internal review of this decision. The review will be conducted by a different person to the person who made the original decision.

If you wish to seek an internal review of the decision you must apply for the review, in writing, within 30 days of receipt of this letter.

No particular form is required for an application for internal review, but to assist the decision-maker you should clearly outline the grounds upon which you consider the decision should be reviewed. Applications for internal review can be lodged in one of the following ways:

Post: The Information Law Coordinator  
Information Law, Practice Management and Corporate Advising Branch  
Department of Employment  
Location Code: C12MT1-LEGAL  
GPO BOX 9880  
CANBERRA ACT 2601

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

### External Review by the Australian Information Commissioner

Section 54L of the FOI Act gives you the right to apply directly to the Australian Information Commissioner (AIC) to seek a review of this decision.

If you wish to have the decision reviewed by the AIC you must apply for the review, in writing or by using the online merits review form available on the AIC's website at [www.oaic.gov.au](http://www.oaic.gov.au), within 60 days of receipt of this letter. To assist the AIC your application should include a copy of this decision and your contact details. You should also clearly set out why you are objecting to the decision.

You can also complain to the AIC or Commonwealth Ombudsman about how an agency handled an FOI request, or other actions the agency took under the FOI Act.

We are advised by the AIC that applications for review or complaint must be lodged with the AIC in one of the following ways:

Online: [www.oaic.gov.au](http://www.oaic.gov.au)  
Post: GPO Box 5218  
Sydney NSW 2001  
Fax: +61 2 9284 9666  
Email: [enquiries@oaic.gov.au](mailto:enquiries@oaic.gov.au)  
In person: Level 3, 175 Pitt Street  
SYDNEY NSW 2000

For general enquiries, please call 1300 363 992 or +61 2 9284 9749 for international.