



# Office of Senator the Hon Simon Birmingham

Minister for Education and Training  
Senator for South Australia

Our Ref Pdrld

Mr Ben Fairless

By email: [foi+request-2358-4896f55e@righttoknow.org.au](mailto:foi+request-2358-4896f55e@righttoknow.org.au)

Dear Mr Fairless

I refer to your request for access under the *Freedom of Information Act 1982* (FOI Act), dated 19 October 2016, to the following:

*"Can you please provide a copy of all inbound and outbound chats in the 7 days prior to this request that was sent or received from the minister using any of the below applications:*

- WhatsApp
- Facebook Messenger
- Signal
- Telegram
- Grindr
- Scruff
- Tinder
- Email Accounts without a .gov.au email address?

## ***Authorised decision-maker***

As noted in my previous letter to you, I am authorised by the Minister to make decisions on his behalf in relation to requests made under the FOI Act.

## ***Searches***

After your response to the Practical Refusal Consultation Notice I issued, you indicated to me your unwillingness to revise the request.

After that, I initiated a process of further searches regarding the request.

As a result of these searches I have identified no documents within the scope of your request.

## ***Decision and reasons for decision***

Under section 24A (1) of the FOI Act, a Minister may refuse a request for access to documents if all reasonable steps have been taken to find the documents and the Minister is satisfied that the document is either:

- in the Minister's possession but cannot be found; or
- does not exist.

As the decision maker, all reasonable steps have been taken to identify documents relevant to the applicant's request and that no documents relevant to the request are in possessed. I have therefore decided to refuse the request under subparagraph 24A(1)(b)(ii) of the FOI Act.

I have enclosed information about your rights of review under the FOI Act at Attachment A.

Yours sincerely

A handwritten signature in black ink, appearing to read 'R Thompson', written in a cursive style.

Rachael Thompson  
Chief of Staff

## ATTACHMENT A

### Your rights of review

#### **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.

Applications for review can be lodged in one of the following ways:

Online: [www.oaic.gov.au](http://www.oaic.gov.au)

Post: GPO Box 2999  
Canberra ACT 2601

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.