



13/11638

15 August 2013

Mr Jim Gray

Sent via e-mail to: foi+request-307-5526b135@righttoknow.org.au

Dear Mr Gray

Freedom of Information Request no. 13/095

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).

Summary

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

You requested access to documents relating to Letters Patent from 1984 on 16 July 2013. Specifically you sought access to:

'a copy of "Letters Patent Relating to the Office of Governor-General of the Commonwealth of Australia" 1984 with the Coat of Arms of Queen Elizabeth II in the letter head and the signature of Her Royal Highness authorizing the document. It is claimed in this document that the Letters Patent are issued "By Her Majesty's Command".

If a copy of the Letters Patent with the Queen's Signature does not exist, please send me a copy of the document, signed by Her Majesty, that commands the issuing of the "Letters Patent Relating to the Office of Governor-General of the Commonwealth of Australia" 1984

Failing the existence of that document, please send me copy of any document that commands the issuing of "Letters Patent Relating to the Office of Governor-General of the Commonwealth of Australia" 1984 signed by the Governor-General.

I have identified that the Attorney-General's Department has no documents that fall within the scope of your request. I did this by arranging for an electronic search of documents, as well as making enquiries of those who may have been able to help locate relevant documents.

I have accordingly decided to refuse your request for access to the documents. More information, including my reasons for my decision, is set out below.

Please note that the document you seek is in the open access period as defined in the *Archives Act 1983* (Cth). Under this Act you can apply for access to Commonwealth government records that are in the open access period. Following amendments to the Act approved by Parliament in May 2010, the open access period for Commonwealth records as defined by the Act begins after 20 years instead of the previous 30 years. Therefore, you may wish to contact the National Archives of Australia to request access to this document.

Decision and reasons for decision

With regard to the documents requested in your application, I have found that:

- the documents you requested about Letters Patent from 1984 do not exist (section 24A(1)(b)(ii)) – information about why they do not exist is given below.

Material taken into account

I have taken the following material into account in making my decision:

- the content of the documents that would fall within the scope of your request
- the FOI Act (specifically sections 24A(1)(b)(ii))
- the guidelines issued by the Australian Information Commissioner under section 93A of the FOI Act

My reasons for refusing access are given below.

Documents non-existent (s 24A(1)(b)(ii))

Under section 24A(1)(b)(ii) of the FOI Act, an agency may refuse a request for access to documents if:

- (a) *all reasonable steps have been taken to find the document; and*
- (b) *the agency or Minister is satisfied that the document:*
 - ...
 - (ii) *does not exist.*

Following all reasonable steps to find the documents, I am satisfied that the documents that you have requested do not exist, so I have decided to refuse access to your request for documents under Section 24A(1)(b)(ii) of the FOI Act.

Your review rights

If you are dissatisfied with my decision, you may apply for internal review or Information Commissioner review of the decision. We encourage you to seek internal review as a first step as it may provide a more rapid resolution of your concerns.

Internal review

Under section 54 of the FOI Act, you may apply in writing to the Attorney-General's Department for an internal review of my decision. The internal review application must be made within 30 days of the date of this letter, and be lodged in one of the following ways:

online: foi@ag.gov.au
post: FOI and Privacy Section
 Office of Corporate Counsel,
 Attorney-General's Department,
 3-5 National Circuit
 Barton, ACT 2600

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-/](https://forms.business.gov.au/aba/oaic/foi-review/)
email: 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 <http://www.oaic.gov.au/freedom-of-information/foi-reviews>.

Questions about this decision

If you wish to discuss this decision, please contact Samantha Fuz on (02) 6141 4105 or e-mail foi@ag.gov.au.

Yours sincerely



Janet Power
Special Advisor