



Our ref: 17/116

21 February 2017

James Smith
C/- foirequest-3073-4d3dc0a1@righttoknow.org.au

Dear Mr Smith

Your Freedom of Information Request—Notice of Receipt and Decision

I refer to your e-mail of 16 February 2017 seeking access to documents under the *Freedom of Information Act 1982* (the FOI Act). A copy of your request is attached to the e-mail covering this letter.

I am an authorised decision-maker under section 23 of the FOI Act. This letter is a notice of receipt and also sets out my decision on your request for access.

Decision

Having overseen a search of ACLEI records, I have located no documents relevant to your request. I believe that all reasonable steps have been taken to locate such a document, and I am satisfied that no such document exists. Relevantly, I note that no ballots have been undertaken for enterprise agreements which were proposed to take effect after 30 June 2014.

Accordingly, your request is refused pursuant to subsection 24A(1) of the FOI Act, because no documents exist that are relevant to the request.

Review rights

You are entitled to seek review of this decision. Your rights are set out at Attachment A to this letter.

Relevant provisions

I have enclosed copies of the provisions of the FOI Act relevant to your request at Attachment B to this letter.

Contacts

If you require clarification of any of the matters discussed in this letter you should contact the ACLEI FOI Co-ordinator by phone on (02) 6141 2300, or by e-mail at foi@aclei.gov.au.

Yours faithfully


Jonas Lipsius
FOI Officer

Lipsius, Jonas

From: James Smith <foi+request-3073-4d3dc0a1@righttoknow.org.au>
Sent: Thursday, 16 February 2017 7:51 PM
To: ACLEI FOI
Subject: TRIM: Freedom of Information request - Employee information provided to ballot agents in Enterprise Agreement bargaining

Follow Up Flag: Follow up
Flag Status: Completed

Dear Australian Commission for Law Enforcement Integrity,

This is a request for information under the Freedom of Information Act.

I request the document(s) which describe the data provided to the external organisation(s) responsible for conducting the ballot(s) for all Enterprise Agreements put to staff for a vote.

The scope of this request is limited only to those ballots undertaken for enterprise agreements which were proposed to take effect after 30 June 2014.

The document shall describe the data given to the ballot agent. For example, employee name, employee identification number, employee email address, etc. I exclude the data for specific employees here; I am only after the 'meta-data'.

If it assists you to treat this as an administrative request for information I encourage you to do so. Otherwise, please consider this a formal FOI request.

Yours faithfully,

James Smith

Please use this email address for all replies to this request:

foi+request-3073-4d3dc0a1@righttoknow.org.au

Is foi@aclei.gov.au the wrong address for Freedom of Information requests to Australian Commission for Law Enforcement Integrity? If so, please contact us using this form:

https://www.righttoknow.org.au/change_request/new?body=aclei

This request has been made by an individual using Right to Know. This message and any reply that you make will be published on the internet. More information on how Right to Know works can be found at:

<https://www.righttoknow.org.au/help/officers>

If you find this service useful as an FOI officer, please ask your web manager to link to us from your organisation's FOI page.

ATTACHMENT A—REVIEW RIGHTS

You are entitled to seek review of this decision.

Internal Review

Firstly, under section 54 of the FOI Act, you may apply for an internal review of the decision. An internal review will be conducted by a different officer from the original decision-maker.

Your application must be made by whichever date is the later between:

- 30 days of your receiving this notice; or
- 15 days of your receiving the documents to which you have been granted access.

No particular form is required to apply for review although it will assist your case to set out in the application the grounds on which you believe that the original decision should be overturned.

An application for a review of the decision should be addressed to:

Executive Director Secretariat
Australian Commission for Law Enforcement Integrity
GPO Box 605
CANBERRA ACT 2601
foi@aclei.gov.au

If you choose to seek an internal review, you will subsequently have a right to apply to the Australian Information Commissioner for a review of the internal review decision.

External review by the Australian Information Commissioner

Alternatively, under 54L of the FOI Act, you may seek review of this decision by the Australian Information Commissioner without first going to internal review. Your application must be made within 60 days of your receiving this notice.

The Information Commissioner is an independent office holder who may review decisions of agencies and Ministers under the FOI Act. You can contact the Office of the Australian Information Commissioner online to request a review of a decision, or by writing to the Information Commissioner at:

GPO Box 2999
CANBERRA ACT 2601

More information is available on the Information Commissioner's website—www.oaic.gov.au .

Complaints to Ombudsman or Information Commissioner

You may complain to either the Commonwealth Ombudsman or the Information Commissioner about action taken by ACLEI in relation to your FOI application. The Ombudsman will consult with the Information Commissioner before investigating a complaint about the handling of an FOI request.

Your enquiries to the Commonwealth Ombudsman can be directed to:

Phone: 1300 362 072 (local call charge)
Email: ombudsman@ombudsman.gov.au
Website: www.ombudsman.gov.au

Your enquiries to the Australian Information Commissioner can be directed to:

Phone: 1300 363 992 (local call charge)

Email: enquiries@oaic.gov.au

Website: www.oaic.gov.au

There is no particular form required to make a complaint to the Ombudsman or the Information Commissioner. Your request should set out the grounds on which it is considered that the action taken in relation to the request should be investigated, and identify ACLEI as the relevant agency.

ATTACHMENT B—RELEVANT FOI ACT PROVISIONS

24A Requests may be refused if documents cannot be found, do not exist or have not been received

Document lost or non-existent

- (1) An agency or Minister may refuse a request for access to a document 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 Minister's possession but cannot be found; or
 - (ii) does not exist.

Document not received as required by contract

- (2) An agency may refuse a request for access to a document if:
 - (a) in order to comply with section 6C, the agency has taken contractual measures to ensure that it receives the document; and
 - (b) the agency has not received the document; and
 - (c) the agency has taken all reasonable steps to receive the document in accordance with those contractual measures.

54 Internal review—access refusal decision

- (1) This section applies if an access refusal decision is made in relation to a request to an agency for access to a document, other than a decision made personally by the principal officer of the agency or the responsible Minister.
- (2) The applicant in relation to the request may apply under this Part for the review (the *internal review*) of the access refusal decision.

54L IC reviewable decisions—access refusal decisions

- (1) An application may be made to the Information Commissioner for a review of a decision covered by subsection (2).
- (2) This subsection covers the following decisions:
 - (a) an access refusal decision;
 - (b) a decision made by an agency on internal review of an access refusal decision (see section 54C);
 - (c) a decision refusing to allow a further period for making an application for internal review of an access refusal decision (under section 54B).

Note 1: An application for the review of an access refusal decision made for the purposes of paragraph (a) may be made regardless of whether the decision was the subject of internal review.

Note 2: If no decision is made on internal review within 30 days, a decision to affirm the original access refusal decision is taken to have been made (see section 54D).

- (3) The IC review application may be made by, or on behalf of, the person who made the request to which the decision relates.