



13/13803

17 October 2013

Mr Phil Patterson
Righttoknow

Sent via e-mail only: foi+request-355-84c7bf03@righttoknow.org.au

Dear Mr Patterson

Freedom of Information Request no. 13/135

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, Chris Collett, Assistant Secretary, am an officer authorised under section 23(1) of the FOI Act to make decisions in relation to FOI requests.

On 19 August 2013, you requested access to information relating to the National Security Hotline (NSH), specifically:

a record of each item of postal correspondence received by (or otherwise intended for or determined to be for the attention of) the Australian Government National Security Hotline on or before 1 March 2003, including such correspondence as may have been received, collected and/or stored by the Attorney-General's Department at any time prior to 1 March 2003, including:

- 1. The date of each item of correspondence, as is normally recorded in respect of correspondence received by the Attorney-General's Department using the TRIM document management system at that time (i.e., 2003);*
- 2. The corresponding date on which each item of correspondence so received was accessioned onto the Attorney-General's Department TRIM document management system;*
- 3. Unless determined to be violative of the Attorney-General's Department privacy guidelines, the corresponding post code for each item of correspondence so recorded.*

I do not require that the records herein requested include any details identifying names, addresses, or content in respect of any of the relevant correspondence.

Regarding part 2 of your request, I have identified that the department has no documents that fall within scope. I did this by arranging for searches of both electronic and hard copy records across the department, as well as making enquiries of those who may have been able to help locate documents within the scope of your request. I am satisfied that the searches undertaken by the relevant areas of this department (specifically, the *Crisis Coordination Branch*) constitute a 'reasonable search' for the purposes of Part 3 of the Guidelines issued by the Australian Information Commissioner under

section 93A of the FOI Act; that is, '*a reasonable search on a flexible and common sense interpretation of the terms of the request*'.

I am satisfied that the documents that you requested under part 2 of your request are not held by this department, as the NSH does not use TRIM to record correspondence received at the NSH.

Regarding parts 1 and 3 of your request, I have decided to release that information to you in full in the document at [Attachment A](#). More information, including the reasons for my decision is set out below.

On 19 August 2013, this department received your request complying with subsection 15(2) of the FOI Act. On 6 September 2013, this Department contacted you and requested a 30 day extension of time under section 15AA of the FOI Act. On 10 September 2013, you agreed to the extension. On 12 September 2013, this Department provided the Office of the Australian Information Commissioner with written notice of the extension under subsection 15AA(b) of the FOI Act.

Decision and reasons for decision

With regard to the documents requested under part 2 of your application, I have found that:

- the documents do not exist within this department (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 FOI Act (specifically, sections 24A(1)(b)(ii))
- the guidelines issued by the Australian Information Commissioner under section 93A of the FOI Act and
- the search results and advice from the relevant area of this department.

My reasons for refusing access are given below.

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

My findings on material questions of fact are that the documents you requested under part 2 of your request do not exist within this department. The NSH does not use TRIM to record correspondence received at the NSH. Under section 24A(1) 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 within this department, so I have decided to refuse part 2 of your request for access to documents under section 24A(1)(b)(ii) of the FOI Act.

Requests involving use of computers etc.

With regard to the documents requested under parts 1 and 3 of your application (set out in the schedule of documents at [Attachment B](#)), subsection 17(1) of the FOI Act provides:

(1) *Where:*

- (a) *a request (including a request in relation to which a practical refusal reason exists) is made in accordance with the requirements of subsection 15(2) to an agency;*
 - (b) *it appears from the request that the desire of the applicant is for information that is not available in discrete form in written documents of the agency; and*
 - (ba) *it does not appear from the request that the applicant wishes to be provided with a computer tape or computer disk on which the information is recorded; and*
 - (c) *the agency could produce a written document containing the information in discrete form by:*
 - (i) *the use of a computer or other equipment that is ordinarily available to the agency for retrieving or collating stored information; or*
 - (ii) *the making of a transcript from a sound recording held in the agency;*
- the agency shall deal with the request as if it were a request for access to a written document so produced and containing that information and, for that purpose, this Act applies as if the agency had such a document in its possession.*

I am satisfied that your request was made in accordance with subsection 15(2) of the FOI Act (that is, it constitutes a valid request); that the summary record that you seek is not available in discrete form in written documents of this department; that you do not wish to be provided with a computer tape or disk on which the information is to be recorded; and that this department could produce a written document containing the information that you seek in discrete form by using a computer that is ordinarily available to this department for retrieving or collating stored information.

Accordingly, I have decided to deal with parts 1 and 3 of your request as if it were a request for access to the written document so produced at Attachment A, and to release that document to you, in full.

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 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-/>

email: enquiries@oaic.gov.au

post: GPO Box 2999, Canberra ACT 2601

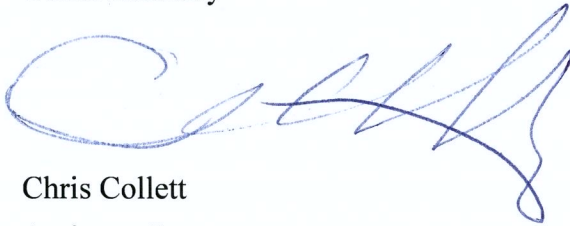
in person: Level 3, 175 Pitt Street, Sydney NSW

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 the action officer, Logan Tudor, on (02) 6141 6666 or e-mail foi@ag.gov.au.

Yours sincerely



Chris Collett

Assistant Secretary

Attachment A

Summary record of postal correspondence received by the NSH on or before 1 March 2003

The NSH was established on 27 December 2002

The NSH does not use TRIM to record postal correspondence received at the NSH

The NSH received six items of postal correspondence between 27 December 2002 and on or before 1 March 2003, as follows:

Date	Postcode
23/12/2002	2580
31/12/2002	Unknown
31/12/2002	3084
01/01/2003	4223
01/01/2003	3124
02/01/2003	3052



Australian Government

Attorney-General's Department

Attachment B

Schedule of documents for Freedom of Information Request no. 13/135

Document No.	Date	Document subject / description	Decision on access	Exemptions
1.	11 September 2013	Summary record of postal correspondence received by the NSH on or before 1 March 2003	Release in full	N/A