



Mr James Smith

Email: [foi+request-3822-00e9eb9d@righttoknow.org.au](mailto:foi+request-3822-00e9eb9d@righttoknow.org.au)

Dear Mr Smith

**Freedom of Information - Access Decision Letter  
Request No. 170806**

I refer to your request of 8 August 2017 which sought documents in the possession of the Water Efficiency Labelling and Standards Regulator (**WELS Regulator**), received by the Department of the Environment and Energy (the **Department**). Your request sought access under the *Freedom of Information Act 1982 (Cth)* (the **FOI Act**) to:

[Item 1] *The ten most recent instances where an employee has sought information, advice, guidance, or opinion on their social media use in a private capacity.*

You have limited the scope of your request to:

- the original request from the employee;
- the agency/department's response;
- any follow-up questions and response;
- only those sent to a relevant HR / conduct / social media (or similar) team (rather than managers across all areas of the organisation); and
- where the original request was created in the last 2 years.

**Authority**

I am authorised under section 23 of the FOI Act to make a decision in relation to your request.

**Decision**

After considering your FOI request and conducting a search of the Department of the Environment and Energy's records, I am satisfied that no relevant documents exist. Your request is therefore refused pursuant to section 24A(1)(b)(ii) of the FOI Act.

**ATTACHMENT A** contains information regarding your review rights, should you wish to seek review of my decision.

**Material considered in making decision**

In making my decision I have considered:

- the scope of the FOI request;
- the relevant provisions of the FOI Act;
- advice from subject matter experts; and
- the *Guidelines issued by the Australian Information Commissioner under section 93A of the Freedom of Information Act 1982 (the FOI Guidelines)*.

## Reasons for Decision

### Section 24A(1)(b)(ii)

*Documents do not exist*

Under subparagraph 24A(1)(b)(ii) of the FOI Act, the Department may refuse a request for access to a document if all reasonable steps have been taken to find the document, and the Department is satisfied that it does not exist.

The Department does not have functional responsibility for the WELS Regulator. This responsibility falls within the Agriculture portfolio. As a result, there are no reasonable steps that the Department can take find the documents subject to your request.

Accordingly, I have decided to refuse your request for access pursuant to subparagraph 24A(1)(b)(ii) of the FOI Act.


Upon it's receipt, the Department sought transfer of this request to the Department of Agriculture and Water Resources. The Department of Agriculture and Water Resources refused to accept transfer of the request.

If you wish to seek access to documents related to the WELS Regulator, we recommend that you make your request directly to the Department of Agriculture and Water Resources.

### Further assistance

The FOI Contact Officer in the Department, whom has assisted with the processing of this request, can be contacted by telephone on 02 6274 2098 or by email at [foi@environment.gov.au](mailto:foi@environment.gov.au).

Yours sincerely



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Margaret Tregurtha  
General Counsel

4 September 2017

### ATTACHMENT:

A. Information sheet "Your Review Rights"



## YOUR REVIEW RIGHTS

You may seek review of this primary decision either internally by the Department (Internal review), or externally by the Information Commissioner (Information Commissioner review).

### Internal review

An Internal review is a review of the decision conducted by a senior officer within the Department. The reviewing officer will not be the same person whom made the primary decision.

If you wish to seek an internal review, you must submit a written application to the Department within 30 days after the day you are notified of this decision. Whilst there is no required form for the written Internal Review application, it is recommended that you include your reasons as to why the primary decision should be reviewed.

The decision on the Internal review will be provided to you within 30 days of the Department receiving your application.

You can submit your written Internal review application to the below addresses:

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

**Post:** FOI Contact Officer  
General Counsel Branch  
Department of the Environment and Energy  
GPO Box 787  
Canberra ACT 2601

### Information Commissioner review

An Information Commissioner review is a review undertaken by the Information Commissioner (IC). The IC will make a decision on the disclosure of the documents, giving regard to any submissions from the Department, yourself as the applicant, and any third parties consulted as part of this decision.

There is no statutory timeframe for a decision on an IC request.

If you wish to request a review by the IC, you must apply to the IC within 60 days after the day you received it. Further details on how to request an Information Commissioner review can be obtained from the Office of the Australian Information Commissioner:

**Online:** <https://www.oaic.gov.au/freedom-of-information/foi-review-process>  
**Post:** GPO Box 5218, Sydney NSW 2001  
**Fax:** 02 9284 9666  
**Phone:** 1300 363 992  
**Email:** [enquiries@oaic.gov.au](mailto:enquiries@oaic.gov.au)

