



Australian Government
Attorney-General's Department

18 December 2017

JS

By email: 'foi+request-4126-80ced036@righttoknow.org.au'

Dear JS

Freedom of Information Request FOI17/169; 17/11062

The purpose of this letter is to advise you of my decision following your request for internal review of the Attorney-General's Department's decision to refuse access to documents you requested under the *Freedom of Information Act 1982* (FOI Act).

Summary

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

On 7 October 2017 you requested access to documents relating to assessments or considerations made in respect of a potential breach of the Australian Public Service Code of Conduct. Specifically you sought access to:

documents in the possession of the Department relating to any assessment or consideration - conducted in the period 1 December 2013 to 12 September 2017 – that the behaviour of the Director of the Fair Work Building Industry Inspectorate involved a potential breach of the Australian Public Service Code of Conduct.

A decision was made on 26 October 2017 to refuse your request under section 24A of the FOI Act which allows for refusal where documents do not exist or cannot be found (Attachment A).

On 15 November 2017 you requested internal review of that decision (Attachment B).

Decision and reasons for decision

In reviewing the original decision, I have requested that searches be conducted. In particular, I requested staff likely to be able to identify relevant documents to undertake comprehensive searches of the department's electronic document management system. No documents falling within the scope of your request were found.

I have decided therefore to affirm the original decision made under section 24A of the FOI Act, which allows for a refusal where documents cannot be found, do not exist or have not been received.

I reiterate the information provided in the original decision, that individual agencies are responsible for their own compliance and assessment of APS Code of Conduct matters.

Material taken into account

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

- the scope of your request
- searches undertaken in the department
- the FOI Act (specifically section 24A), and
- the guidelines issued by the Australian Information Commissioner under section 93A of the FOI Act.

Your review rights

If you are dissatisfied with my decision, you may apply for 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.

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:

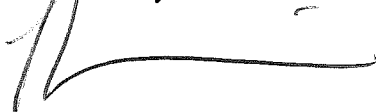
online: [https://forms.business.gov.au/aba/oaic/foi-review-/](https://forms.business.gov.au/aba/oaic/foi-review/)
email: enquiries@oaic.gov.au
post: GPO Box 5218, SYDNEY NSW 2001
in person: Level 3, 175 Pitt Street, SYDNEY NSW 2000

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 FOI Unit by telephone on (02) 6141 6666 or by email foi@ag.gov.au.

Yours sincerely



Sara Samios
Acting Assistant Secretary

Attachments:

A: Original FOI decision dated 26 October

B: Request for internal review dated 15 November 2017

