



ASIC

Australian Securities & Investments Commission

Our Reference: 41053/17

GPO Box 9827  
In your capital city

24 November 2017

[www.asic.gov.au](http://www.asic.gov.au)

Mr Phillip Sweeney

By email: [foi+request-4173-01ef890f@righttoknow.org.au](mailto:foi+request-4173-01ef890f@righttoknow.org.au)

Dear Mr Sweeney

### **Freedom of Information Request**

We refer to your request for access to documents under the *Freedom of Information Act 1982 (FOI Act)*.

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

You have requested access to:

" ... any correspondence between ASIC and the Committee (or Committee Secretariat) in relation to this Approach to the Commonwealth Ombudsman".

You clarified that:

- The "Approach" you are referring to is a complaint lodged with the Commonwealth Ombudsman in 2011 in relation to the administration of section 1017C of the *Corporations Act 2001*; and
- The relevant search period is from 1 March 2017 to the present.

### **Decision and reasons for the decision**

The documents you have requested do not exist. Your request is refused in line with section 24A(1)(b)(ii) of the FOI Act, which provides:

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

Document lost or non-existent

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- (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.

We have checked our electronic records and we have no records that fall within the scope of your request. I am satisfied that the documents do not exist.

### **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 for an internal review of my decision. The internal review application must be made within 30 days of the date of this letter. Where possible please attach reasons why you believe review of the decision is necessary. The internal review will be carried out by another ASIC officer within 30 days.

This request should be addressed to me or to the Senior Manager, Administrative Law GPO Box 9827 SYDNEY or by email to [foirequest@asic.gov.au](mailto:foirequest@asic.gov.au)

### **Information Commissioner Review**

Under section 54N of the FOI Act, you may apply to the Office of the Australian Information Commissioner (**OAIC**) 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.

You may contact the OAIC by post at GPO Box 5218 Sydney NSW 2001, by email at [enquiries@oaic.gov.au](mailto:enquiries@oaic.gov.au) or by telephone on 1300 363 992.

### **Right to complain**

You may lodge a complaint with the OAIC about the conduct of ASIC in the handling of this request. You may contact the OAIC as described above.

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**Questions about this decision**

If you have any questions about this letter, please contact me on 03 9280 4638 or by email at [lauren.roy@gmail.com](mailto:lauren.roy@gmail.com).

Yours sincerely

A handwritten signature in blue ink, appearing to read 'L Roy', is positioned above the printed name.

**Lauren Roy**

**Authorised decision-maker under subsection 23(1) of the FOI Act  
Australian Securities and Investment Commission**