



LS6299.

Mr Dan Monceaux

Right to Know Organisation

By email to: <mailto:foi+request-4186-7bd6f4e3@righttoknow.org.au>; and
<mailto:foi+request-4187-b3884027@righttoknow.org.au>

Dear Mr Monceaux

Your Freedom of information request No. LS6299

I refer to your emails dated 31 October 2017 12:09 PM and 31 October 2017 12:11 PM to the Australian Electoral Commission ('AEC') in which you request (your 'FOI Request') access under the [Freedom of Information Act 1982](#) (the 'FOI Act') access to membership lists of the Liberal Party of Australia (Victorian Division and Liberal Party of Australia (SA Division)).

2 I am writing today to acknowledge receipt of your FOI Requests and to give you a decision about access to documents that you requested in each FOI Request.

Summary

3 I, Owen Jones, Senior Lawyer of the AEC, am an officer authorised under section 23(1) of the FOI Act to make decisions in relation to FOI requests.

4 Specifically you sought access to a list of all current financial members of:

- (a) the Liberal Party of Australia (SA Division) [requested in your email dated 31 October 2017 12:09 PM]; and
- (b) Liberal Party of Australia (Victorian Division) [requested in your email dated 31 October 2017 12:11 PM].

5 I have combined your two FOI Requests into one request for consideration.

6 My reasons for doing so is that each request raises the same issues for consideration, namely whether there is such a document in the possession of the AEC.

7 There are no documents that fall within the scope of your request.

8 Accordingly, I have decided to refuse your FOI Request. I explain why below.

Decision and reasons for decision

Decision

- 9 With regard to the class of documents specified in paragraph 4 with respect to your FOI Request, I have decided under subparagraph 24A(1)(b)(ii) of the FOI Act, that you the documents which you requested do not exist – information about why they do not exist is given below.

Material taken into account

- 10 I have taken the following material into account in making my decision:
- (a) the content of the documents that fall within the scope of the FOI Request;
 - (b) the *Commonwealth Electoral Act 1918* (the 'Electoral Act'), specifically section 123 and 126;
 - (c) the FOI Act, specifically sections 24A; and
 - (d) the guidelines ('[FOI Guidelines](#)') issued by the Australian Information Commissioner under section 93A of the FOI Act, paragraphs 3.80– 3.84 and 3.108.

Reasons

- 11 My reasons for refusing access are given below.

Documents non-existent (s 24A(1)(b)(ii) of the FOI Act)

- 12 With respect to the class of documents described as 'membership lists of the Liberal Party of Australia (Victorian Division and Liberal Party of Australia (SA Division)' in the FOI Request, I found that:
- (a) the Liberal Party of Australia (Victorian Division and Liberal Party of Australia (SA Division) were registered in the Register of Political Parties on 18 July 1984.
 - (b) on 18 July 1984:
 - (i) the Hon. Dame Margaret Georgina Constance Guilfoyle. D.B.E., a member of the Liberal Party of Australia was, among others, a Senator for Victoria; and
 - (ii) the Hon. Harold William Young a member of the Liberal Party of Australia was, among others, a Senator for South Australia.
- 13 I made the relying on the Hansards for the Senate in the 32nd Parliament published for reference by the Parliament of Australia at:
http://parlinfo.aph.gov.au/parlInfo/search/summary/summary.w3p;adv=yes;orderBy=_fragment_number,doc_date-

- 14 Section 124 of the Electoral Act provides for the registration of an eligible political party for the purposes of Part XI of the Electoral Act as follows.

124 Registration of political parties

Subject to this Part, an eligible political party may be registered under this Part for the purposes of this Act.

- 15 In so far as is material, section 123 of the Electoral Act provides:

123 Interpretation

- (1) In this Part, unless the contrary intention appears:

address does not include a postal address that consists of a post office box number.

eligible political party means a political party that:

- (a) either:
 - (i) is a Parliamentary party; or
 - (ii) has at least 500 members; and
- (b) is established on the basis of a written constitution (however described) that sets out the aims of the party.

Parliamentary party means a political party at least one member of which is a member of the Parliament of the Commonwealth.

- 16 It follows from section 123 of the Electoral Act that the Liberal Party of Australia (Victorian Division and Liberal Party of Australia (SA Division) were each a Parliamentary party on 18 July 1984.
- 17 As there is no requirement for either the Liberal Party of Australia (Victorian Division) or Liberal Party of Australia (SA Division) to lodge a list of 500 members with the AEC to register as a Parliamentary party, the AEC will not have any document that contains a list of current financial members of either the Liberal Party of Australia (Victorian Division) or the Liberal Party of Australia (SA Division).
- 18 In view of this, no steps can reasonably be taken to find a membership list for either the Liberal Party of Australia (Victorian Division) or the Liberal Party of Australia (SA Division).
- 19 Subparagraph 24A(1)(b)(ii) of the FOI Act permits the AEC to refuse a request for non-existent documents.

20 In so far as is material, subsection 24A(1) of the FOI Act provides:

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:
 - ...
 - (ii) does not exist.

21 Accordingly, I decided to refuse your FOI Request under subparagraph 24A(1)(b)(ii) of the FOI Act.

YOUR REVIEW RIGHTS

22 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

23 Under section 54 of the FOI Act, you may apply in writing to the AEC for an internal review of my decision. The internal review application must be made within 30 days of the date of this letter.

24 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

25 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 52189, Sydney NSW 2001
in person:	Level 3, 175 Pitt Street, Sydney NSW

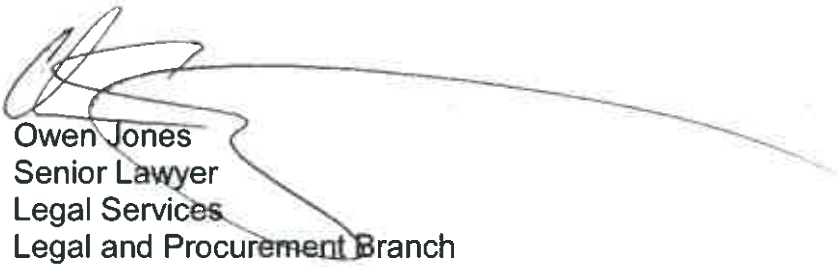
26 More information about Information Commissioner review is available on the Office of the Australian Information Commissioner website. Go to www.oaic.gov.au/freedom-of-information/foi-reviews.

QUESTIONS ABOUT THIS DECISION

27 If you wish to discuss this decision, please contact me at:

email:	owen.jones@aec.gov.au
fax:	02 6293 7657
post:	Locked bag 4007, Canberra ACT 2601
telephone:	02 6271 4528

Yours sincerely



Owen Jones
Senior Lawyer
Legal Services
Legal and Procurement Branch

1 November 2017