



Australian Government
Australian Public Service Commission

Fliccy

By email: Fliccy foi+request-4192-53e33be4@righttoknow.org.au

Our reference: C18/1032

Dear Fliccy

Freedom of Information Request

I write in response to your email request of 23 May 2018, seeking access to documents held by the Australian Public Service Commission (the Commission) under the *Freedom of Information Act 1982* (FOI Act).

You have requested access to the following:

'I'd like to make an FOI request for access to all documents held by the APSC that relate to the APSC produced document for the IPA. Those documents include, but are not limited to, instant messages (lync, whatsapp or other), text messages, voice mail messages, emails, meeting agendas, meeting minutes, meeting notes, marked-up edits and comments (with authors/editors identified), memos, post it notes and audit details of active events against relevant documents held in workflow/HPRM/TRIM (demonstrating which APSC staff members accessed, created and modified relevant documents and the changes they may have made and when) that in any way relate to the APSC produced document for the IPA (whether it be the genesis and preparation of that document, its use, its audience, its recipients (including all third party recipients), its contents, decisions made in respect of the document, its distribution or otherwise.

Noting those documents will tend to demonstrate illegal activities engaged in by APSC staff and the Public Service Commissioner, there's a wide public interest in their production.'

Interpretation of scope

You have requested all documents along with varying types of media and or data that "relate to the APSC produced document for the IPA".

In interpreting your request, I have determined that you have referred to documents previously disclosed in response to an earlier FOI request. Those documents are contained in the following PDF document:

<https://www.righttoknow.org.au/request/3471/response/9986/attach/4/Documents%20C17%201026.pdf>.

I note that you have recently received a decision from the Commission on 7 June 2018, relating to FOI reference number C18/530. The scope of the previous request is very similar to the scope of this current request.

In the previous decision (C18/530), the decision maker noted that the document attached to the Commissioner's email message of 13 April 2015 was not a document which was produced, created, or prepared for the IPA. The decision maker subsequently determined in that decision that no documents exist that fall within the scope of your request.

As stated in the earlier decision, the related document attached to the Commissioner's email of 13 April 2015 was prepared by the Commission's Workplace Relations Group, in response to an earlier request by the Commissioner to Commission staff seeking material to assist the Commissioner in writing an article.

The Commissioner's email message of 13 April 2015 provided the IPA with a copy of a pre-existing document which was prepared for an article. The document was not "prepared for the IPA".

My Decision

I am an officer authorised under subsection 23(1) of the FOI Act to make decisions in relation to FOI requests. This letter sets out the reasons for my decision on your FOI request.

As outlined in the Commission's FOI decision to you dated 7 June 2018 (reference number C18/530), the relevant line areas within the Commission have undertaken searches of both physical and electronic records and found no documents exist which fall within the scope of your current/subsequent FOI request.

As it has previously been determined that no documents exist which fall within the scope of your previous request (reference C18/530), there can accordingly be no documents which exist which fall within the scope of your subsequent FOI request of 23 May 2018.

Sections 24A(1)(a) and 24A(1)(b) of the FOI Act provide that an agency may refuse a request for access to a document if the agency is satisfied that all reasonable steps have been taken to find the document and the agency is satisfied that the document does not exist.

I have decided to refuse your request for access under section 24A of the FOI Act.

REASONS FOR DECISION

Material taken into account

In making my decision, I have had regard to the following:

- the terms of your request;
- searches and advice from the relevant business areas in the Commission;
- the relevant provisions of the FOI Act, and
- guidelines published by the Office of the Australian Information Commissioner (OAIC) (FOI Guidelines).

My decision is made on the basis that all reasonable steps have been taken to locate any documents which you have requested and no documents have been located. Accordingly, my decision is that no records exist in response to your request.

Review rights

If you are dissatisfied with this decision, you are entitled to seek a review. Your rights are set out at **Attachment A** to this letter.

Legislation

A copy of the FOI Act is available from <https://www.legislation.gov.au/Details/C2018C00016>
If you are unable to access the legislation from this webpage, please contact our office.

Contacts

If you require clarification of any of the matters discussed in this decision, you should contact the Commission's FOI Officer by email at foi@apsc.gov.au.

Yours sincerely



Marco Spaccavento
Group Manager, Workplace Relations
19 June 2018

Enclosures:

Attachment A – Rights of Review

Asking for a full explanation of a Freedom of Information decision

If you are dissatisfied with this decision, you may seek a review. Before you ask for a formal review of an FOI decision, you may contact us to discuss your request. We will explain the decision to you. This gives you a chance to correct any misunderstandings.

Asking for a formal review of a Freedom of Information decision

If you still believe a decision is incorrect, the *Freedom of Information Act 1982* (FOI Act) gives you the right to apply for a review of the decision. Under sections 54 and 54L of the FOI Act, you can apply for a review of an FOI decision by seeking:

1. an Internal Review by an Officer in the Commission, and/or
2. a review by the Australian Information Commissioner.

Note 1: There are no fees for these reviews.

Applying for an internal review by an Internal Review Officer

If you apply for internal review, a different decision maker to the departmental delegate who made the original decision will carry out the review. The Internal Review Officer will consider all aspects of the original decision and decide whether it should change. An application for internal review must be:

- made in writing
- made within 30 days of receiving this letter to;

Email: foi@apsc.gov.au

Post: The FOI Coordinator
Australian Public Service Commission
B Block, Treasury Building
GPO Box 3176
Parkes Place West
PARKES ACT 2600

Note 2: You do not need to fill in a form. However, it is a good idea to set out any relevant submissions you would like the Internal Review Officer to further consider, and your reasons for disagreeing with the decision.

Applying for external review by the Australian Information Commissioner

If you do not agree with the original decision or the internal review decision, you can ask the Australian Information Commissioner to review the decision.

If you do not receive a decision from an Internal Review Officer in the Commission within 30 days of applying, you can ask the Australian Information Commissioner for a review of the original FOI decision.

You will have 60 days to apply in writing for a review by the Australian Information Commissioner from the date in which you received the decision.

You can **lodge your application**:

Online: www.oaic.gov.au

Post: Australian Information Commissioner

GPO Box 5218

SYDNEY NSW 2001

Email: enquiries@oaic.gov.au

Note 3: The Office of the Australian Information Commissioner generally prefers FOI applicants to seek internal review before applying for external review by the Australian Information Commissioner.

Important:

- If you are applying online, the application form the 'Merits Review Form' is available at www.oaic.gov.au
- If you have one, you should include with your application a copy of the Commission's decision on your FOI request
- Include your contact details
- Set out your reasons for objecting to the Commission's decision.

Complaints to the Information Commissioner and Commonwealth Ombudsman

Information Commissioner

You may complain to the Information Commissioner concerning action taken by an agency in the exercise of powers or the performance of functions under the FOI Act. There is no fee for making a complaint. A complaint to the Information Commissioner must be made in writing. The Information Commissioner's contact details are:

Telephone: 1300 363 992

Website: www.oaic.gov.au

Commonwealth Ombudsman

You may also complain to the Ombudsman concerning action taken by an agency in the exercise of powers or the performance of functions under the FOI Act. There is no fee for making a complaint. A complaint to the Ombudsman may be made in person, by telephone or in writing. The Ombudsman's contact details are:

Phone: 1300 362 072

Website: www.ombudsman.gov.au

The Commonwealth Ombudsman generally prefers applicants to seek review before complaining about a decision.