



ASIC

Australian Securities & Investments Commission

16 March 2018

Level 5, 100 Market Street,
Sydney NSW 2000
GPO Box 9827, Sydney NSW 2001
DX 653 Sydney

Julie

Telephone: +61 2 9911 2000

Facsimile: +61 2 9911 2414

www.asic.gov.au

By email: foi+request-4420-c34f8c12@righttoknow.org.au

Dear Julie

Request for Access to Documents – Notice under s24AB of the FOI Act

I refer to your email dated 7 March 2018 seeking access under the *Freedom of Information Act 1982 Cth (FOI Act)* to various documents in the possession of the Australian Securities and Investments Commission (**ASIC**).

Your request seeks:

"Any relevant document(s) which summarise misconduct by ASIC staff.

I would like to see the broad spectrum of offences committed, and what the resulting consequences were for staff generally, in addition to the types of offences, and the number of occurrences of each offence.

If such a document exists which covers any, or all, of these matters for a recent, full financial-year period (eg, 2014-15, 2015-16, 2016-17).

Section 15(2)(b) FOI Act

Section 15(2)(b) of the FOI Act relevantly states, that a request for access to a document must *"provide such information concerning the document as is reasonably necessary to enable a responsible officer of an agency, ... to identify it"*.

I consider that your request, in its current form, does not adequately identify the documents sought and that accordingly, a practical refusal reason within the meaning of section 24AA(1)(b) of the FOI Act exists in relation to your request. In particular, it is not clear what you mean by the words "summarise misconduct". It is also not clear what you mean by "broad spectrum of offences committed".

Further, your request is very broad. Your request for "any relevant document(s) which summarise misconduct by ASIC staff" could be any document discussing misconduct, further you have not specified which years

you would like the documents for. As the request currently stands, it would incorporate thousands of documents. In my view, processing the request would substantially and unreasonably divert the resources of ASIC from its other operations and accordingly, I consider that a practical refusal reason within the meaning of section 24AA(1)(a) of the FOI Act exists in relation to your request.

In its current form, it would be my intention to refuse access to the documents sought in your request. The purpose of this letter is to invite you to revise your request so that the practical refusal reasons no longer exist.

Issues regarding the scope of your request

In revising the scope of your request you may wish to consider identifying the matters in respect of which the documents are sought. For example, you may want to specify which years you are seeking the documents for. You may also want to specify which types of documents you are seeking. When you say summary do you mean reports summarising misconduct? What sort of documents do you mean emails, reports, letters?

Scope of request

You should be aware that, while the first 5 hours of decision making time is free of charge, ASIC is entitled to charge for time spent processing your request which includes searching and retrieval of documents and decision making time in excess of 5 hours. Careful attention to the terms of the request can very significantly reduce the number of documents caught by a request and thereby impact substantially upon the amount charged.

As stated above, if a practical refusal reason exists in relation to a request ASIC may, in accordance with section 24(1) of the FOI Act, refuse to process it. In its current form it would be my intention to refuse access to the documents sought in your request.

As a general rule, an application must be processed within 30 days. However, please note that in accordance with section 24(8) of the FOI Act, the time for processing your request is suspended from the day that you receive this letter, and resumes on the day after ASIC receives from you one of the following:

- a revised written request addressing the matters raised above or;
- written notification that you do not wish to revise your request.

If you wish to amend your request, with a view to make the request in a form that would remove the ground for refusal, please contact me to discuss or send a revised request, within 14 days of the date of this letter. If I have not heard from you at the end of this period your request will be taken to be withdrawn in accordance with section 24(7) of the FOI Act.

If you wish to discuss this matter please contact me on telephone (02) 9911 5469.

Yours faithfully

A handwritten signature in blue ink, appearing to read 'Nicky Peacocke', written in a cursive style.

Nicky Peacocke

(Authorised decision-maker pursuant to subsection 23(1) of the FOI Act)