



By email: foi+request-482-d0cb336a@righttoknow.org.au

Dear Mr Thomacos

1. I refer to your correspondence received by the Department of Education (the department) on 2 December 2013, in which you requested access under the *Freedom of Information Act 1982* (the FOI Act) to:

"...any documents, emails, etc. that concern the removal of the 'Review of Funding for Schooling Report' from the department's website, and any such documentation regarding that may help to explain why the term 'Gonski' now yields no results when used a search term on the department's website. Additionally, I would like access to any documents, emails, etc. that concern the decommissioning of schoolfunding.gov.au website and also how the decision was made to decommission it".

2. I am authorised to make decisions under section 23 of the FOI Act and my decision regarding your request and the reasons for my decision are set out below.

Decision on access to document

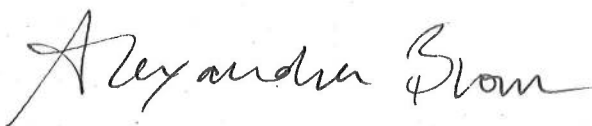
3. Pursuant to subparagraph 24A(1)(b)(ii) of the FOI Act, I have decided to refuse your request for access to the documents on the basis that the documents requested do not exist.

Reasons for decision

4. An agency or Minister may refuse a request for access to a document under subsection 24A(1) of the FOI Act 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.*
5. I have decided to refuse your request pursuant to section 24A of the FOI Act on the basis that the department has taken all reasonable steps to find the documents falling within the scope of your request, and I am satisfied that the documents do not exist. The evidence upon which I have based my decision is as follows:
 - your correspondence dated 2 December 2013;
 - consultations with departmental officers regarding the information held by the department and searches undertaken by them;
 - the FOI Act; and

- the guidelines issued by the Australian Information Commissioner under section 93A of the FOI Act.
6. I have been advised by departmental officers that searches of the department's records have been undertaken and those searches have not identified any documents falling within the scope of your request.
 7. Departmental officers have advised that there are no documents concerning the removal of the 'Review of Funding for Schooling Report' from the website of the former Department of Education, Employment and Workplace Relations (DEEWR), and the removal of the 'Review of Funding for Schooling Report' occurred as a result of the decision to delete the deewr.gov.au and betterschools.gov.au websites to reflect the outcome of the federal election and the relevant machinery of government changes.
 8. Departmental officers have also advised that no decision was made to delete or decommission the schoolfunding.gov.au website, as this site was a legacy site which has redirected to betterschools.gov.au since it replaced the previous site in 2012.
 9. Accordingly, I am satisfied that all reasonable steps have been taken to determine whether the relevant documents exist, and such steps have failed to locate any documents falling within the scope of your request. I have therefore decided to refuse your request pursuant to subparagraph 24A(1)(b)(ii) of the FOI Act on the basis that the documents you are seeking do not exist.
 10. I have enclosed information about your rights of review under the FOI Act at **Attachment A**.
 11. Should you have any questions, please do not hesitate to contact me on (02) 6240 2570 or via email at foi@deewr.gov.au.

Yours sincerely



Alexandra Brown
Senior Government Lawyer
Freedom of Information, Privacy and People Legal Branch
Legal and Investigations Group

16 December 2013

Review rights

Internal Review

Section 54 of the *Freedom of Information Act 1982* (FOI Act) gives you the right to apply for an internal review of this decision. The review will be conducted by a different person to the person who made the original decision.

If you wish to seek an internal review of the decision you must apply for the review, in writing, within 30 days of receipt of this letter.

No particular form is required for an application for internal review, but to assist the decision-maker you should clearly outline the grounds upon which you consider the decision should be reviewed. Applications for internal review can be lodged in one of the following ways:

Post: The FOI Coordinator
Freedom of Information, Privacy and People Legal Branch
Location Code: C12MT1-LEGAL
GPO BOX 9880
CANBERRA ACT 2601

Email: foi@deewr.gov.au

External Review by the Australian Information Commissioner

Section 54L of the FOI Act gives you the right to apply directly to the Australian Information Commissioner (AIC) to seek a review of this decision.

If you wish to have the decision reviewed by the AIC you must apply for the review, in writing or by using the online merits review form available on the AIC's website at www.oaic.gov.au, within 60 days of receipt of this letter. To assist the AIC your application should include a copy of this decision and your contact details. You should also clearly set out why you are objecting to the decision.

You can also complain to the AIC about how an agency handled an FOI request, or other actions the agency took under the FOI Act.

Applications for review or complaint can be lodged in one of the following ways:

Online: www.oaic.gov.au
Post: GPO Box 2999, Canberra ACT 2601
Fax: +61 2 9284 9666
Email: enquiries@oaic.gov.au
In person: Level 3, 175 Pitt Street
Sydney, NSW 2000

For general enquiries, please call 1300 363 992 or +61 2 9284 9749 for international.

The Commonwealth Ombudsman

You can complain to the Commonwealth Ombudsman concerning action taken by an agency in the exercise of powers or the performance of functions under the FOI Act.

A complaint to the Commonwealth Ombudsman may be made orally or in writing. The Ombudsman may be contacted for the cost of a local call from anywhere in Australia on telephone 1300 362 072.

