



ASIC
Australian Securities &
Investments Commission

**Australian Securities
and Investments Commission**

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Our ref:1505/19

14 February 2019

Mr Philip Sweeney

By email: foi+request-5170-cb06d332@righttoknow.org.au

Dear Mr Sweeney

Freedom of Information Request No. 1505/19

I refer to your request for internal review of the primary decision made by ASIC on 16 January 2019 under the *Freedom of Information Act 1982 (FOI Act)*.

I am the authorised decision-maker for the purposes of section 23 of the Act and this letter gives notice of my decision.

On 16 December 2018 ASIC received your request for documents under the FOI Act. Your request sought access to:

- Copies of all internal emails sent or received by Mr David Asadi (or copies of phone logs of internal discussions) related to the making of ASIC's decision in the matter CAS-20359-K6F4B.
- This includes chain emails related to the decision between other ASIC staff.

You clarified that you were not seeking copies of ASIC's correspondence with the complainant.

On 16 January 2019 ASIC made a primary decision in response to your request.

On 18 January 2019 ASIC received your request for an internal review of the primary decision.

Scope of the review

You have requested an internal review of ASIC's "handling" of your FOI request.

I have interpreted your request to be for a review of the decision ASIC made in relation to your FOI application. Please note that complaints about how an agency has handled an FOI request should be directed to the Information Commissioner. For further information, see below – 'Right to complain'.

Decision and reasons for decision

I have reviewed the primary decision of the ASIC decision-maker.

I confirm the original decision on the basis that the documents you have requested do not exist. Your request is refused in line with paragraph 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

- (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.

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

Material taken into account

I have taken the following material into account in making my decision:

- the scope of your request;
- the FOI Act (specifically sections 24A(1)(b)(ii));
- the guidelines issued by the Australian Information Commissioner under section 93A of the FOI Act.

Review rights

In the event that you are dissatisfied with the decision:

1. You may within 60 days after the day on which you have been notified of this decision, apply in writing to the Office of the Australian Information Commissioner (OAIC) for a review of my decision under section 54N of the FOI Act. You may contact the OAIC by post at GPO Box 5218 Sydney NSW 2001, by email at enquiries@oaic.gov.au or by telephone on 1300 363 992

Right to complain

2. You may lodge a complaint with the OAIC in relation to the conduct of ASIC in the handling of this request. You may contact the OAIC as set out above.

If you have any questions or wish to discuss, please contact me on 03 9280 4638 or lauren.roy@asic.gov.au.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'L. Roy', is written over a faint, light blue rectangular stamp.

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