



Australian Government
Attorney-General's Department

14/3641

4 April 2014

Mr Peter Timmins
Righttoknow

Sent via e-mail only: foi+request-552-092dee5b@righttoknow.org.au

Dear Mr Timmins

Freedom of Information Request no. FOI14/037

The purpose of this letter is to give you a decision about access to documents that you requested under the *Freedom of Information Act 1982* (FOI Act).

Summary

I, Carmen Miragaya, A/g Assistant Secretary, am an officer authorised under section 23(1) of the FOI Act to make decisions in relation to FOI requests.

On 5 March 2014, you requested access to documents relating to the Open Government Partnership (OGP).

On 24 March 2014, the department wrote to you and advised that the terms of your request (concerning meeting number 2 of 29 October 2013) had been partially-transferred to the Department of Finance (Finance) under section 16 of the FOI Act, as the documents are not in the possession of this department, and are, to our knowledge, in the possession of Finance, as Finance co-chaired meeting number 2, and the subject-matter of the documents is more closely connected with Finance.

Your revised FOI request with this department is now:

... the record of each of the inter agency meetings on the Open Government Partnership held on 17 July 2013 ... and 5 November 2013, dates meetings were held as indicated by Senator Brandis in Senate estimates, and of any subsequent inter agency meeting or meetings.

I have identified that the department holds two documents (referred to as documents 1 and 2) that fall within the scope of your request. I did this by relying on searches of both electronic and hard copy records across the department, as well as making enquiries of those who may have been able to help locate documents within the scope of your request. I am satisfied that the searches undertaken constitute a reasonable search for the purposes of Part 3 of the Guidelines issued by the Australian Information Commissioner under section 93A of the FOI Act; that is, 'a reasonable search on a flexible and common sense interpretation of the terms of the request'.

The schedule of documents at Attachment A provides a description of the two documents which fall within the scope of your request and the access decision for each of those documents. With regard to the documents, I have decided to grant access in full to document 1 and to grant access in part to document 2. More information, including my reasons for my decision, is set out below.

Decision and reasons for decision

With regard to the documents identified in the attached schedule, I have decided:

- to grant access in full to document 1; and
- to grant access in part to document 2 with irrelevant material (personal information of junior officers) removed under section 22(1) of the FOI Act (*irrelevant matter*).

In addition I found that:

- the documents that you requested concerning the record of the meeting on 5 November 2013 (meeting number 3) do not exist within this department (section 24A(1)(b)(ii)). Information about why they do not exist is given below.

Material taken into account

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

- the terms of your revised FOI request (following partial-transfer to Finance);
- the contents of the two documents that fall within the scope of your request;
- the FOI Act (ss 16(1), 22(1) and 24A(1)(b)(ii));
- the Guidelines issued by the Australian Information Commissioner; and
- the views of external agencies (including the Department of the Prime Minister and Cabinet and Finance).

The schedule of documents at Attachment A indicates each document to which access is refused. My reasons for refusing access are given below.

1. Documents non-existent (s 24A(1)(b)(ii))

My findings on material questions of fact are that the documents that you have requested under the part of your request concerning, ‘... *the record of each of the inter agency meetings on the Open Government Partnership held on ... 5 November 2013*’, do not exist within this department. Under Section 24A(1) of the FOI Act, an agency may refuse a request for access to documents 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.*

Following all reasonable steps to find the documents, I am satisfied that the documents that you have requested under this part of your request do not exist within this department, so I have decided to refuse access to this part of your request under section 24A(1)(b)(ii) of the FOI Act.

2. Access to edited copies with exempt or irrelevant matter deleted

Section 22(1) of the FOI Act provides:

Scope

(1) *This section applies if:*

(a) *an agency or Minister decides:*

- (i) *to refuse to give access to an exempt document; or*
- (ii) *that to give access to a document would disclose information that would reasonably be regarded as irrelevant to the request for access; and*

- (b) *it is possible for the agency or Minister to prepare a copy (an **edited copy**) of the document, modified by deletions, ensuring that:*
- (i) *access to the edited copy would be required to be given under section 11A (access to documents on request); and*
 - (ii) *the edited copy would not disclose any information that would reasonably be regarded as irrelevant to the request; and*
- (c) *it is reasonably practicable for the agency or Minister to prepare the edited copy, having regard to:*
- (i) *the nature and extent of the modification; and*
 - (ii) *the resources available to modify the document; and*
- (d) *it is not apparent (from the request or from consultation with the applicant) that the applicant would decline access to the edited copy.*

On this occasion, I consider that it was reasonably practicable for the department to prepare, in accordance with section 22(1) of the FOI Act, a copy (an *edited copy*) of document 2 that falls within the revised scope of your request. I have reached this decision having regard to the reasonable extent of the modifications required to release the document to you, with all irrelevant matter (personal information of junior officers) removed from the document.

Your review rights

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

Under section 54 of the FOI Act, you may apply in writing to the department for an internal review of my decision. The internal review application must be made within 30 days of the date of this letter, and be lodged in one of the following ways:

e-mail: foi@ag.gov.au
post: FOI and Privacy Section
Office of Corporate Counsel
Attorney-General's Department
3-5 National Circuit
BARTON ACT 2600

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

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-/>
e-mail: enquiries@oaic.gov.au
post: GPO Box 2999, Canberra ACT 2601
in person: Level 3, 175 Pitt Street, Sydney NSW

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

Questions about this decision

If you wish to discuss this decision, please contact the department on (02) 6141 6666 or e-mail foi@ag.gov.au.

Yours sincerely



Carmen Miragaya
A/g Assistant Secretary

Attachments

- A. Schedule of documents
- B. Documents released to you under FOI



Australian Government

Attorney-General's Department

Attachment A – Schedule of documents for AGD FOI matter no. FOI14/037

Doc No.	Date	Document title / description	Decision on access	FOI exemptions claimed
1	17 July 2013	OGP Meeting of 17 July 2013 – Outcomes • 1 page	Release in full	N/A
2	17 July 2013	OGP Meeting of 17 July 2013 – Attendees List • 2 pages	Release in part	Material outside the ambit of your request removed under section 22 of the FOI Act (<i>irrelevant matter</i>)