



Australian Government
Attorney-General's Department

FOI19/283; 19/11049

14 January 2020

Dear Chris H

By email: Chris H <foi+request-5911-3774a8e0@righttoknow.org.au>

Freedom of Information Request FOI19/283

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).

Your request

On 8 December 2019, you requested access to documents in the following terms:

'...I would like to request the most recent document related or makes reference to 'Section 80 Trial by Jury' in the Commonwealth of Australia Constitution Act 1900.'

The Attorney-General's Department (the department) acknowledged your request on 10 December 2019.

A decision in relation to your request was due on 7 January 2019. On 18 December 2019, the department contacted the Office of the Australian Information Commissioner (OAIC) to request an extension to the processing period for your request under s 15AB of the FOI Act. On 23 December 2019, the OAIC granted the department's extension request. The new statutory due date for your request is 24 January 2020.

My Decision

I, David Lewis, General Counsel (Constitutional), am an officer authorised under subsection 23(1) of the FOI Act to make decisions in relation to freedom of information requests made to the department.

I have decided to refuse your request as the document within its scope is a document in respect of activities undertaken by the Australian Government Solicitor so is exempt from the operation of the FOI Act. The operation of this exemption is explained further below.

In making my decision regarding access to the relevant documents, I have taken the following material into account:

- the terms of your request
- the provisions of the FOI Act (specifically section 7(2) and Schedule 2), and
- the guidelines issued by the Australian Information Commissioner under section 93A of the FOI Act (the Guidelines).

Exemption of certain persons or bodies (section 7(2))

Section 7(2) of the FOI Act provides that:

(2) The persons, bodies and Departments specified in Part II of Schedule 2 are exempt from the operation of this Act in relation to the documents referred to in that Schedule in relation to them.

Part II of Schedule 2 lists the Attorney-General's Department as exempt from the operation of the FOI Act in relation to:

(b) documents in respect of activities undertaken by the Australian Government Solicitor.

The document identified within the scope of your request relates to activities undertaken by the Australian Government Solicitor. We consider that the exemption in section 7(2) extends to AGS documents where they are held by other parts of the department.

Accordingly, I am satisfied that, in relation to this document, the department is exempt from the operation of the FOI Act.

Additional Information

Your review rights under the FOI Act are set out at **Attachment A** to this letter.

Questions about this decision

If you wish to discuss this decision, please contact Fiona, Freedom of Information and Parliamentary Section, by telephone on (02) 6141 6666 or by email foi@ag.gov.au.

Yours sincerely



David Lewis
General Counsel (Constitutional)
Office of Constitutional Law

Attachments

Attachment A: Review Rights

Attachment A

Review Rights

If you are dissatisfied with the decision of the Attorney-General's Department (the department), you may apply for internal review or Information Commissioner review of the decision.

The department encourages applicants to consider seeking internal review as a first step as it may provide a more rapid resolution of your concerns.

Internal review

Under section 54 of the *Freedom of Information Act 1982* (FOI Act), applications for internal review must be made in writing within 30 days of the date of the decision letter. Applications for internal review must be lodged by email or post.

email: foi@ag.gov.au

post: Freedom of Information and Parliamentary Section
Strategy and Governance Branch
Attorney-General's Department
3-5 National Circuit
BARTON ACT 2600

An officer of the department other than the officer who made the original decision will complete the internal review within 30 days of receipt of your request.

Providing reasons you believe internal review of the decision is necessary will facilitate the completion of the internal review.

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 the decision letter, and can be lodged in one of the following ways:

online: <https://forms.business.gov.au/aba/oaic/foi-review/>

email: enquiries@oaic.gov.au

post: GPO Box 5218, SYDNEY NSW 2001

in person: Level 3, 175 Pitt Street, SYDNEY NSW 2000

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>