



10 January 2020

FOI ref: 2616

Ms Julie Middleton

By email: foi+request-5906-6227112a@righttoknow.org.au

Dear Ms Middleton

Internal review decision

I refer to your email of 13 December 2019 seeking internal review of the decision of Diane Brown dated 13 December 2019.

I am authorised under section 23 of the *Freedom of Information Act 1982* (the FOI Act) to make decisions under that Act and have conducted an internal review of Ms Brown's decision.

FOI Request and Decision

Your request submitted on 15 November 2019, as modified by an email from you on 26 November 2019, sought access under the FOI Act to the following:

2. Minutes of the ministerial meeting on insurance issues in October 2002, ministers agreed in principle to the development of nationally consistent legislation

Point 2 of my request is for minutes of the ministerial meeting. The minutes of the meeting are most relevant. There is an obvious contradiction of what has been reported. The publications repeatedly refer to: "nationally consistent legislation". The articles then explain the different legislation of each jurisdiction. The publications raise questions about what was actually agreed at the meeting and who was in attendance. I still want to proceed with item 2 of my request.

On 13 December 2019, Ms Brown refused your request under section 24A(1) of the FOI Act as Treasury does not have documents in the scope of your request. She advised that she arranged for staff in the Financial System Division to search the department's records management system and department files from secondary storage for material relevant to your request. No documents in the scope of your request were located.

Request for Review

Your request for review states as follows:

I am writing to request an internal review of Department of the Treasury's handling of my FOI request 'Actuarial assessment referred to in publication dated 15 November 2002'.

I do not accept that no minutes of the ministerial meeting exist.

The steps for a formal meeting begin with scheduling the meeting and inviting participants.

The minutes of a meeting are official and legal record of who was present, absentees and what was decided during the meeting.

Following the meeting, the minutes are distributed or shared. The minutes would either have been emailed to invitees or shared in a cloud-based system.

As stated in the Freedom of Information Act 1982 (Cth) document includes:

(a) any of, or any part of any of, the following things:

- (i) any paper or other material on which there is writing;*
- (ii) a map, plan, drawing or photograph;*
- (iii) any paper or other material on which there are marks, figures, symbols or perforations having a meaning for persons qualified to interpret them;*
- (iv) any article or material from which sounds, images or writings are capable of being reproduced with or without the aid of any other article or device;*
- (v) any article on which information has been stored or recorded, either mechanically or electronically;*
- (vi) any other record of information; or*

(b) any copy, reproduction or duplicate of such a thing; or

(c) any part of such a copy, reproduction or duplicate;

but does not include:

(d) material maintained for reference purposes that is otherwise publicly available; or

(e) Cabinet notebooks.

A full history of my FOI request and all correspondence is available on the Internet at this address:

https://www.righttoknow.org.au/request/actuarial_assessment_referred_to

Internal Review

You have requested internal review by stating that you do not accept that there are no minutes of the ministerial meeting in October 2002. The effect of Ms Brown's decision is that the minutes of the meeting could not be found in the Treasury's record keeping system after staff in her Division searched for them. I have therefore reviewed Ms Brown's decision by considering whether the searches carried out were adequate and appropriate.

I have been provided with information about the searches conducted and the nature of the records kept by the Treasury in 2002. I am advised that the usual practice for ministerial meetings like the one on 2 October 2002 was that there were no minutes, but that the Ministers issued a joint communique as an official record, as happened in this case.

Despite that usual practice, an officer in Ms Brown's Division conducted searches to establish whether there were any records of the outcome of the meeting in addition to the joint communique. These searches identified a number of files that might contain such records. The officer manually searched through those

files looking for the minutes of the meeting or any other additional record of the meeting, but no additional records were located on any of the files. I am satisfied that a full and thorough search was undertaken.

Accordingly, I have decided to affirm Ms Brown's decision to refuse your request under section 24A(1) of the FOI Act.

I have set out your rights of review of this decision at Attachment A.

Yours sincerely



James Kelly
A/g Deputy Secretary
Markets Group

ATTACHMENT A**1. APPLICATION TO AUSTRALIAN INFORMATION COMMISSIONER (INFORMATION COMMISSIONER) FOR REVIEW OF DECISION**

Section 54L of the Act gives you the right to seek a review of the decision from the Information Commissioner. An application for review must be made within 60 days of receiving the decision.

Applications for review must be in writing and must:

- give details of how notices must be sent to you; and
- include a copy of the notice of decision.

You should send your application for review to:

The Information Commissioner
Office of the Australian Information Commissioner
GPO Box 5218
SYDNEY NSW 2001

AND/OR

2. COMPLAINTS TO THE INFORMATION COMMISSIONER

Section 70 of the Act provides that a person may complain to the Information Commissioner about action taken by an agency in the exercise of powers or the performance of functions under the Act.

A complaint to the Information Commissioner must be in writing and identify the agency the complaint is about. It should be directed to the following address:

The Information Commissioner
Office of the Australian Information Commissioner
GPO Box 5218
SYDNEY NSW 2001

The Information Commissioner may decline to investigate the complaint in a number of circumstances, including that you did not exercise your right to ask the agency, the Information Commissioner, a court or tribunal to review the decision.