

22 April 2020

faustus

foi+request-6253-5f2c115e@righttoknow.org.au

Dear faustus

RE: Application under the *Freedom of Information Act 1982*

I refer to your email of 26 March 2020 in which you make a request under the Commonwealth *Freedom of Information Act 1982* (FOI Act) for:

"Dear Department of the Prime Minister and Cabinet,

I am seeking 3 documents.

The Order of Australia has a number of different levels or divisions e.g. OAM = Medal of the Order of Australia, AM = Member of the Order of Australia.

1. I am seeking a document containing the total number of recipients by category since the award was established in 1975 or one from which this information could reasonably be derived.

To my understanding the Governor General may cancel an award of Order of Australia. Alternatively, a recipient may resign from their membership to the Order, which is the equivalent of handing back their award.

2. In relation to the cancellation of the award by the Governor General, I am seeking a document containing the following information:

- a. Name*
- b. Date of award*
- c. Date of cancellation*

3. In relation to resignation, I am seeking the same information:

- a. Name*
- b. Date of award*
- c. Date of cancellation*

Please advise if you need me to narrow the scope of my request.

Yours faithfully,

faustus"

As you were advised on 3 April, your FOI request was transferred from the Department of the Prime Minister and Cabinet to the Office of the Official Secretary to the Governor-General.

I am the authorised decision maker under section 23 of the FOI Act and this letter sets out my decision on your request for access.

Material taken into account

In making my decision, I have had regard to the following:

- the terms of your request;
- the content of the documents to which you sought access;
- advice from Agency officers with responsibility for matters relating to the documents to which you sought access;
- the relevant provisions of the FOI Act; and
- the Commonwealth's guidelines on FOI.

Section 6A of the FOI Act

- 1) This Act does not apply to any request for access to a document of the Official Secretary to the Governor-General unless the document relates to matters of an administrative nature.
- 2) For the purposes of this Act, a document in the possession of a person employed under section 13 of the Governor-General Act 1974 that is in his or her possession by reason of his or her employment under that section shall be taken to be in the possession of the Official Secretary to the Governor-General.

The High Court has previously held that the exercise of the Governor-General's substantive powers and functions are not deemed to be matters of an administrative nature. Honours matters are considered to be a substantive function of the Governor-General and associated documents are therefore excluded from disclosure under 6A of the Act.

Decision

I have identified that there are no documents or correspondence relating to your request for information that are not exempt from the FOI Act. Accordingly, I advise that I must reject your request under Section 24A of this Act.

Documents provided outside of the FOI Act

I have taken into account that most of your request relates to publicly-available information. As a result, in responding to your request, I have decided to

provide you with the publicly-available information which should help answer most of your questions, even though it falls outside the scope of our obligations under the FOI Act. I trust just that you will find this information helpful.

- The Office of the Official Secretary to the Governor-General 2018-19 Annual Report contains the total number of recipients in the Order of Australia by category from 1975 to The Queen's Birthday honours list in June 2019. This can be found at <https://www.gg.gov.au/office-official-secretary-governor-general/annual-reports>. Please find attached the same data for the Australia Day 2020 honours list.
- Please also find attached a table of cancellations and terminations from the Order of Australia since 1975 and a table of resignations from the Order of Australia since 1975. Each of the terminations, cancellations and resignations listed in these tables have been published in public gazettes.
- There is also some information available which may be helpful to you with regard to your interest in the Honours and Awards system. Information about the Order of Australia, including the Constitution of the Order, is published on the Governor-General's website: <http://www.gg.gov.au/sites/default/files/files/honours/Order%20of%20Australia%20Booklet%202014.pdf>

Review rights

You are entitled to seek review of this decision. Your rights are set out at Attachment A to this letter.

Yours sincerely

A handwritten signature in black ink that reads "Harnawsky". The signature is written in a cursive, flowing style.

Ms Jo Tarnawsky
Deputy Official Secretary to the Governor-General

ATTACHMENT A—INFORMATION ON RIGHTS OF REVIEW

1. APPLICATION FOR INTERNAL REVIEW OF DECISION

Section 54 of the Freedom of Information Act (the Act) gives you the right to apply for an internal review of the decision refusing to grant access to documents in accordance with your request.

Application for a review of the decision must be made in writing within 30 days of receipt of this letter.

No particular form is required but it would assist the decision-maker if you could set out in the application the grounds on which you consider that the decision should be reviewed. Application for review of the decision should be addressed to:

The Official Secretary to the Governor-General
Government House
CANBERRA ACT 2600

OR

2. 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:

- 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
GPO Box 2999
CANBERRA ACT 2601

Or by email to: enquiries@oaic.gov.au

OR

3. 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
GPO Box 2999
CANBERRA ACT 2601

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.