

Our ref: FOI-2020-40002

28 July 2020

Mr Phillip Sweeney

By email: [foi+request-6485-7673a618@righttoknow.org.au](mailto:foi+request-6485-7673a618@righttoknow.org.au)

Dear Mr Sweeney

On 16 July 2020, you requested access under the *Freedom of Information Act 1982* (FOI Act) to:

*The documents I seek are copies of the correspondence between Allisha Hill and Monique Adofaci related to this approach [approach reference 2011-106224]*

In interpreting the scope of your request, I note your contention:

*Now the conclusion of Ms Hill was based on that fact that Ms Adofaci had deliberately misquoted subsection 1017C(8) of the Corporations Act 2001*

This letter constitutes notice of my decision on your request. I am authorised to make decisions on behalf of our Office under s 23 of the FOI Act.

### Decision

I have identified one document falling within the scope of your request (the document). I have decided to give you access to the document in full.

A schedule of documents is included at **Attachment A** and a schedule of relevant provisions of the FOI Act at **Attachment B**.

I have also provided the document with this decision.

In undertaking searches for documents relevant to your request, I examined all the documents on case file 2011-106224 from which I identified that our Office had received a response from ASIC on 8 July 2011.

However, the document was not attached to our electronic records as we had apparently received it in paper form. But, through searching your previous FOI requests I was able to find a copy of the document.

In conducting those searches, I also identified a further six letters sent to you by ASIC that may have been provided to our Office with the document. However, none of those letters relate to Ms Adofaci.

In assessing those letters, I have found them to be outside of the scope of your request. In coming to that conclusion, I took into account the specific terms of your request and the fact that those letters disclose your home address, which I considered that you may not have intended to be published on the right to know website.

However, should you wish to make a request for access to those additional documents, it remains open to you to do so.

## **Review rights**

### ***Internal review***

Under s 54 of the FOI Act, you may apply in writing to our Office for an internal review of my decision. The internal review application must be made within 30 days of the date on which you were notified of my decision.

In your application, please provide the reasons for why you believe review of the decision is necessary. The internal review will be carried out by a decision maker, other than the original decision maker, within 30 days.

### ***Review by the Australian Information Commissioner***

Under s 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 at: [https://forms.business.gov.au/smartforms/servlet/SmartForm.html?formCode=ICR\\_10](https://forms.business.gov.au/smartforms/servlet/SmartForm.html?formCode=ICR_10)
- via email to: [FOIDR@oaic.gov.au](mailto:FOIDR@oaic.gov.au)
- by overland mail to GPO Box 5218 SYDNEY NSW 2001
- in person to Level 2, 175 Pitt Street, Sydney NSW

More information about Information Commissioner review is available on the Office of the Australian Information Commissioner website at: <https://www.oaic.gov.au/freedom-of-information/reviews-and-complaints/information-commissioner-review/>.

### **Complaints to the Information Commissioner**

You may complain to the Information Commissioner about action taken by the Ombudsman in relation to your FOI request.

You may lodge your complaint in one of the following ways

- online at: [www.oaic.gov.au](http://www.oaic.gov.au)
- by overland mail to GPO Box 5218 SYDNEY NSW 2001
- by email to: [FOIDR@oaic.gov.au](mailto:FOIDR@oaic.gov.au)

More information about the FOI complaints process is available on the Office of the Australian Information Commissioner website at: <https://www.oaic.gov.au/freedom-of-information/reviews-and-complaints/make-an-foi-complaint/>.

**Contacts**

If you require clarification of any of the matters discussed in this letter you should contact me using the contact information set out at the foot of the first page of this letter.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Ken Richards', written over the printed name.

Ken Richards  
Assistant Director  
Legal Team

**Attachment A – Schedule of documents**

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<b>Document number</b>	<b>Date</b>	<b>Number of pages</b>	<b>Title</b>	<b>Status</b>	<b>Exemptions</b>
01	5 July 2011	7	ASIC letter to the Office of the Commonwealth Ombudsman	Released in full	None

## **Attachment B — Schedule of relevant provisions of the FOI Act**

### **Section 11 - Right of access**

- (1) Subject to this Act, every person has a legally enforceable right to obtain access in accordance with this Act to:
  - (a) a document of an agency, other than an exempt document; or
  - (b) an official document of a Minister, other than an exempt document.
- (2) Subject to this Act, a person's right of access is not affected by:
  - (a) any reasons the person gives for seeking access; or
  - (b) the agency's or Minister's belief as to what are his or her reasons for seeking access.

### **Section 11A - Access to documents on request**

...

- (5) The agency or Minister must give the person access to the document if it is conditionally exempt at a particular time unless (in the circumstances) access to the document at that time would, on balance, be contrary to the public interest.

