



Administrative Appeals Tribunal

FOI ref: 2020/0096

28 September 2020

Mr John Smith
foi+request-6572-9713b7ec@righttoknow.org.au

Dear Mr Smith

Notice of Decision for Freedom of Information Request no. 2020/0096

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

Summary

You lodged an FOI request on 29 August 2020 in the following terms:

I seek as follow-up to this FOI, the total number of Member Service Officers working at the AAT on a labour hire contract.

I also seek the position titles of all SES officers working on a labour hire contract (if any exist).

I am an officer authorised under s 23(1) of the FOI Act to make decisions in relation to FOI requests.

Decision

I have decided to refuse access to the documents you have requested under section 24A of the FOI Act. The reasons for my decision are set out below.

In making my decision, I have taken the following into account:

- the absence of documents that fall within the scope of your request;
- the FOI Act, specifically section 24A;
- the guidelines issued by the Australian Information Commissioner under s 93A of the FOI Act (FOI Guidelines).

Member Services Officers

The AAT does not have a job title “Member Services Officer”. In interpreting your request, I have assumed you intended to request information about “Member Support Officers” who work in the Migration and Refugee Division. The Human Resources Section advised in response to our inquiry for this request that, on 31 August 2020, there were no Member Support Officers working under labour hire arrangements. It follows that there is no document for which a search could be conducted and no computer report that could be produced under section 17, which would contain the information you seek.

For the above reason, access to the document is refused under section 24A of the FOI Act because reasonable steps have been taken to locate the document and the document does not exist.

SES officers

“SES” is an abbreviation for “Senior Executive Service” which is a class of Australian Public Service employee created under the *Public Service Act 1999*. A person must be employed under that Act in order to be a member of the SES. It follows that, although a variety of services – including more senior services - may be purchased through labour hire arrangements, SES officers are not engaged under labour hire arrangements.

For this reason, I have decided a document containing the information you have requested does not exist. Therefore, I have decided to refuse access to the document under section 24A on the basis that it does not exist.

Your review rights

Information about how you can apply for a review of this decision or complain about how we have dealt with this matter is set out in the attached fact sheet, FOI 2.

If you have any questions about this decision, please contact me at foi@aat.gov.au.

Yours sincerely,

Sandra Koller

Authorised FOI Officer (EL2)

Attachments

FOI 2 – Information about reviews and complaints under the Freedom of Information Act

Information about reviews and complaints under the Freedom of Information Act

What should I do prior to applying for internal review or contacting the Office of the Australian Information Commissioner?

Before you apply for an internal review or contact the Office of the Australian Information Commissioner, we recommend that you telephone the officer who made the FOI decision. It is often possible to resolve concerns or answer your questions using this approach and, if not, the officer will be able to assist you in applying for review.

How do I apply for internal review to the AAT?

You can apply to us for an internal review of the FOI decision. The application for internal review must be made within 30 days or such further period as we allow, after the day the decision is notified to you. To apply for an internal review, you must do so in writing. You may also wish to explain why you are not satisfied with the decision. A different and more senior officer authorised under the *Freedom of Information Act 1982* (the FOI Act) will conduct the internal review and make a new decision within 30 days after receipt of your application.

If you have already applied for internal review and want to seek a further review of that decision, you will need to apply to the Australian Information Commissioner.

How do I apply for review to the Australian Information Commissioner?

You may also apply directly to the Australian Information Commissioner for review of the FOI decision. The application for review must be made within 60 days after the day notice of the decision was given. An application for review must be in writing, include details of how notices in relation to the review are to be sent to you and include a copy of the decision. You may also wish to explain why you are not satisfied with the decision. An online application form is available on the Office of the Australian Information Commissioner's website, details of which are provided below.

What if I want to make a complaint about the handling of a Freedom of Information request?

If you have a complaint about the way in which we have processed your request for access under the FOI Act you can ask the Australian Information Commissioner to investigate. An online complaint form is available on the Office of the Australian Information Commissioner's website, details of which are provided below.

Where can I find further information or contact details for the Office of the Australian Information Commissioner?

Further information is available on the Office of the Australian Information Commissioner's website at www.oaic.gov.au and you can contact the office on 1300 363 992 or by email at enquiries@oaic.gov.au.