



## Administrative Appeals Tribunal

FOI ref: 2020/0564

29 October 2020

Mr John Smith

By email: [foi+request-6572-9713b7ec@righttoknow.org.au](mailto:foi+request-6572-9713b7ec@righttoknow.org.au)

Dear Mr Smith

### **Notice of internal review decision for freedom of information request no. 2020/00564**

The purpose of this letter is to advise you of my decision on your request for internal review under the *Freedom of Information Act 1982* (FOI Act).

#### **Summary**

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

On 29 August 2020 you made a request under the FOI Act in the following terms:

*I seek as follow-up to this FOI, the total number of Member Services 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). SES officers do not have a reasonable expectation of privacy as to their employment status, given their seniority and high level of remuneration [sic].*

On 28 September 2020 we sent you a decision refusing access to the documents you requested under section 24A of the FOI Act on the basis that the documents do not exist.

- In relation to the first part of your request, the decision-maker found no document existed because there were no Member Support Officers working under labour hire arrangements.
- In relation to the second part of your request, the decision-maker found no document existed because Senior Executive Service (SES) officers are a class of employee that must be employed under the *Public Service Act 1999* and cannot be engaged under labour hire arrangements.



On 29 September 2020 we received your request for internal review of that decision in the following terms:

*I seek internal review of that decision; on the grounds that I obviously did not mean SES officers as defined in the Public Service Act.*

*What the request was obviously asking for; was for people working on labour hire contracts, working in roles that would ordinarily be filled by somebody with an SES level classification; if a labour hire employee was not being used.*

I have treated your request for internal review as concerning the decision on the second part of your request.

## **Decision**

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

- your emails received on 29 August 2020 and 29 September 2020
- the notice of decision for FOI request no. 2020/0096
- the FOI Act, specifically sections 22 and 47F
- the guidelines issued by the Australian Information Commissioner under s 93A of the FOI Act, and
- the views of a third party consulted by the AAT under section 27A of the FOI Act.

I have decided to grant full access to the information you seek; namely, the position title of any person working under a labour hire arrangement in a role that could be considered equivalent to an SES level. This information is set out in the attached document, which is the document originally sent to you with the notice of decision for FOI request no. 2020/0085. The information released in accordance with this decision is no longer redacted. The other information set out in that document, which is irrelevant to the FOI request the subject of this internal review decision, has been deleted in accordance with section 22 of the FOI Act.

If you have any questions about this decision, please contact me at [foi@aat.gov.au](mailto:foi@aat.gov.au).

## **Your review rights and right to make a complaint**

If you are dissatisfied with my decision, you may apply to the Australian Information Commissioner for review. An application for review by the Information Commissioner must be made in writing within 60 days after the date of this letter, and be lodged in one of the following ways:

online:	<a href="https://forms.business.gov.au/aba/oaic/foi-review/">https://forms.business.gov.au/aba/oaic/foi-review/</a>
email:	<a href="mailto:enquiries@oaic.gov.au">enquiries@oaic.gov.au</a>
post:	GPO Box 2999, Canberra ACT 2601
in person:	Level 3, 175 Pitt Street, Sydney NSW.



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.

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

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'CMe', followed by a long horizontal flourish.

**Christopher Matthies**

Authorised FOI Officer (Senior Executive Service Band 1)

**Attachments:**

List of contractors currently working at the AAT, as at 17 August 2020