



18 December 2020

FOI ref: 2811

Phillip Sweeney

By email: foi+request-6835-bbcd743c@righttoknow.org.au

Dear Mr Sweeney

Freedom of Information Request – Internal Review Decision

I refer to your internal review request on 20 November 2020 concerning the Treasury's decision of the same date regarding your access request under the *Freedom of Information Act 1982* (the **FOI Act**) to the following:

- i. *the written disclosures of James Shipton to the Responsible Minister for the period 1 February 2018 to the present; and*
- ii. *the written disclosures of Daniel Creenan to the Responsible Minister for the period 16 July 2018 to the present.*

I am an authorised decision maker under section 23 of the FOI Act.

Decision

As indicated in the original decision, the Treasury holds no documents within the scope of your request. I therefore affirm the original decision to refuse your request under section 24A(1) of the FOI Act. The reasons for my decision follow.

Request for internal review

You submitted the following in support of your request for internal review:

The Treasury has previously provided me with copies of the six-monthly disclosures of Greg Medcraft when he was an ASIC Commissioner and then ASIC Chairman. If the Treasury was able to locate the six-monthly disclosures of Greg Medcraft then it should be able to locate the disclosures of James Shipton and Daniel Crennan.

Please check the FOI Disclosure Log. A full history of my FOI request and all correspondence is available on the Internet at this address:

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

I note that the link you provided was to your correspondence with the Treasury regarding your current request posted on the Right To Know website, and does not concern documents concerning Mr Medcraft, to which you refer in your submissions.

On 21 November 2020, you further submitted the following:

Further to my request for an Internal Review, please refer to FOI response from The Treasury dated 2 March 2012 {File Number ER2012/00228} and related Internal Review dated 13 April 2012 (File Number ER2012/00228) which included a Schedule of Documents with Author Greg Medcraft and Addressee as follows

- 1 - Chris Bowen MP (30/7/2009) Disclosure of Interest - s 123 of ASIC Act*
- 2- Chris Bowen MP (17/2/2010) Disclosure of Interest - s123 of ASIC Act*
- 3- David Bradbury MP (21/10/2010) Disclosure of Interest - s123 of ASIC Act*
- 4 - David Bradbury MP (4/4/2011) Disclosure of Interest - s123 of ASIC Act*
- 5 - David Bradbury MP (13/4/2011) Disclosure of Interest - s123 of ASIC Act*

This confirms that, if the required disclosures have been made, then the Treasury will hold copies.

Material Considered

I have had regard to the following in making my decision:

- the scope of your request and your submissions on internal review;
- advice from Treasury officers and from the Australian Securities and Investments Commission (ASIC);
- the relevant provisions in the FOI Act, the Guidelines issued by the Australian Information Commissioner under section 93A of the FOI Act 1982 (**FOI Guidelines**).

Reasons for decision

I have been advised that staff in the relevant area of the Treasury have searched for the requested documents and no documents were located. I am further advised that in 2012 the Treasury did have the s 123 disclosures for Mr Medcraft that you mention and refused you access to them. However, it is no longer the practice for these disclosures to be provided to the Treasury at the same time they are provided to the Treasurer. I am therefore satisfied that the Treasury does not hold the documents you requested.

Rights of Review

A statement setting out your rights of review in this matter is attached.

Yours sincerely



Roxanne Kelley
Deputy Secretary
Corporate and Foreign Investment Group

INFORMATION ON RIGHTS OF REVIEW

APPLICATION TO AUSTRALIAN INFORMATION COMMISSIONER (INFORMATION COMMISSIONER) FOR REVIEW OF DECISION

Section 54L of the FOI 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.

An application 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

COMPLAINTS TO THE INFORMATION COMMISSIONER

Section 70 of the FOI 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 FOI 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.