



Our ref: 67512

Alby P

By email: [foi+request-6897-7d620bb1@righttoknow.org.au](mailto:foi+request-6897-7d620bb1@righttoknow.org.au)

Dear Alby

**Freedom of Information Act 1982 – Notice of Decision**

I refer to your correspondence, received by the Department of Industry, Science, Energy and Resources (**the department**) on 16 November 2020, for access under the *Freedom of Information Act 1982 (FOI Act)* as follows:

*I'm requesting under the FOI Act the number of emails sent to Zoe Naden on 16 January 2020 and Emma Greenwood on 7 July 2020 by each public officer listed underneath from the Legal, Audit & Assurance.*

*[List of 30 names]*

*The document should be a spreadsheet with the number for each public officer above to avoid personal details and the number of emails sent to each recipient on the specified dates.*

*For example a spreadsheet similar to these columns and rows underneath.*

*Public officer no., No. of email sent to Zoe Naden on 16 January 2020, No. of emails sent to Emma Greenwood on 7 July 2020 1, 0, 0 2, 1, 0 3, 0, 0 4, 0 1 ...*

*And so on until public officer 29.*

*I consent to the removal of names in the public officer list above by Right to Know after this request is sent.*

**Decision**

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

Your request has been treated as a request for an existing document which contains the information you outlined.

I am satisfied that the relevant electronic databases, files and corporate file lists in the department have been searched for the document you have requested, and a document or documents that contain the number of emails sent within the parameters of your request can not be found.

Following these searches I am satisfied that all reasonable steps have been taken to find the documents requested and that the documents you have requested do not exist.

Therefore, I have decided to refuse your request in accordance with section 24A of the FOI Act on the grounds that the documents you have requested do not exist.

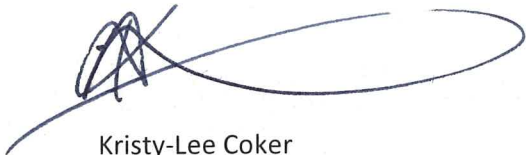
Your request appears to suggest that the department should create a document containing the requested information, if a document does not already exist. While section 17 of the FOI Act enables an agency to create a document where it appears an applicant is requesting information, the department is only required to do so where there is an existing computer or software system which can independently collate or retrieve stored information to produce the requested document. Section 17 of the Act and also paragraphs 3.204-3.210 of the FOI Guidelines provide further information about creating documents in response to FOI requests.

The department does not have a computer system or software which can independently search each listed employee's (or former employee's) emails for the requested information and collate that information into a document.

If you are dissatisfied with any part of my decision, your review rights are set out in **Attachment A**.

Please do not hesitate to contact the FOI team at [FOI@industry.gov.au](mailto:FOI@industry.gov.au) if you require any further clarification.

Yours sincerely

A handwritten signature in blue ink, consisting of a stylized 'K' and 'L' followed by a long horizontal flourish.

Kristy-Lee Coker  
A/g General Counsel  
Legal, Audit & Assurance

17 December 2020

## **REVIEW RIGHTS**

### **Application for Internal Review**

Section 54 of the FOI Act gives you the option to apply for a departmental internal review of my decision. If you make an application for internal review it will be conducted by an officer of the department (other than me) appointed by the Secretary of the department to conduct a review and make a completely fresh decision on the merits of the case.

Application for a review of the decision must be made within 30 days after the day of receipt of this letter, or within 15 days of receipt of the documents to which this decision relates (whichever is the longer period). You do not have to pay any fees or processing charges for an internal review, except for charges relating to the provision of any additional relevant material located as a result of the review (for example photocopying). While a specific form is not required, it would assist the decision maker if your application specifies the grounds on which you consider the decision should be reviewed.

Application for a review of a decision should be addressed to:

FOI Coordinator  
Department of Industry, Science, Energy and Resources  
GPO Box 2013  
CANBERRA ACT 2601

or by e-mail to: [FOI@industry.gov.au](mailto:FOI@industry.gov.au).

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

If any decision on internal review were not satisfactory to you, section 54L of the FOI Act gives you the right to apply for review of my decision by the Information Commissioner.

An application for review by the Information Commissioner may be made regardless of whether the decision was the subject of a departmental internal review. An application for review by the Information Commissioner must be made within 60 days of receipt of this notice. There is no fee for review by the Information Commissioner.

You must apply in writing and you can lodge your application in one of the following ways:

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Online: [www.oaic.gov.au](http://www.oaic.gov.au)  
Post: GPO Box 5218, Sydney NSW 2001  
Fax: +61 2 9284 9666  
Email: [enquiries@oaic.gov.au](mailto:enquiries@oaic.gov.au)

An application form is available on the website at [www.oaic.gov.au](http://www.oaic.gov.au). Your application should include a copy of this notice and your contact details. You should also set out why you are objecting to the decision.

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

You may complain to the Australian Information Commissioner concerning action taken by an agency in the exercise of powers or the performance of functions under the FOI Act. There is no fee for making a complaint. The Australian Information Commissioner will make a completely independent investigation of your complaint. A complaint to the Australian Information Commissioner must be made in writing and can be lodged online using the Information Commissioner Complaint Application form on the Australian Information Commissioner's website at [www.oaic.gov.au](http://www.oaic.gov.au).

**industry.gov.au**  
Industry House - 10 Binara Street, Canberra City, ACT 2601  
GPO Box 2013 Canberra ACT 2601 ABN: 74 599 608 295

