



22 April 2021

Mr Peter Timmins  
By email: [foi+request-6961-dc54013a@righttoknow.org.au](mailto:foi+request-6961-dc54013a@righttoknow.org.au)

Dear Mr Timmins

### **Re. Freedom of Information Request**

The purpose of this letter is to provide you with information in response to a request you made under the *Freedom of Information Act 1982* (FOI Act).

I regret the delay in the finalisation of this matter.

### **Request**

On 7 December 2020 you requested:

*"...the document whatever the name and type, that records the details of all aspects of time spent and dollar amount attributed to dealing with FOI application LEX 2125 lodged by me on 18 June.*

...

*The application for the document in this form seems ideally suited to access via Administrative Access so please treat it as such."*

The department took your request for administrative access in good faith and proceeded to conduct searches of its records. Those searches yielded no documents.

### **Administrative access**

On 11 January 2021, an officer from the department's Freedom of Information team responded to your request in the following terms:

*"As you have suggested, we propose handling this request outside the FOI Act through an administrative access arrangement.*

...

*The department does not hold any documents that record the time spent or dollar amount attributed to dealing with FOI application LEX2125 lodged by you on 18 June 2020."*

The department's response was provided outside the statutory timeframe. Pursuant to section 15AC of the FOI Act, the department was taken to have made a decision refusing to give you access to the requested documents on 6 January 2021.

## Internal review

On 9 February 2021, you responded to the department indicating that you objected to the administrative access response on the basis that no document was to be released to you.

On this basis, you requested an internal review of the department's deemed refusal of your request.

## Statement of reasons

I note that internal review is not available in circumstances where an access refusal decision was not made within the statutory timeframe, and is consequently a deemed decision of an agency to refuse access to a document under section 15AC of the FOI Act. I have nevertheless considered your request for internal review and provide the following information to assist you.

In considering your request for internal review I have taken into account your original request, the FOI Act, and the guidelines issued by the Australian Information Commissioner under section 93A of the FOI Act ('FOI Guidelines'), together with advice from FOI and Privacy Law Section and the department's original response to your request.

Sections of the FOI Act referenced in my decision letter can be found online at [www.legislation.gov.au](http://www.legislation.gov.au). Sections of the FOI Guidelines referenced can be found online at [www.oaic.gov.au/freedom-of-information/foi-guidelines/](http://www.oaic.gov.au/freedom-of-information/foi-guidelines/).

In conducting this internal review, I ran further formal searches for documents within the scope of your request. These searches conducted by the department found no documents relevant to your request.

After taking all reasonable steps to find the documents you requested, I am satisfied that the documents do not exist. If your request was processed within the statutory timeframe, I would have refused it under section 24A(1) of the FOI Act.

## Review

Your review rights are set out in the Attachment for your reference.

Please contact the FOI and Privacy Law Section by email to [foi@dfat.gov.au](mailto:foi@dfat.gov.au) if you have any queries in relation to this decision.

Yours sincerely



Ben Milton  
Assistant Secretary  
Information Disclosure Services and Corporate Law Branch

### Your review rights

*Australian Information Commissioner*

Under the provisions of section 54L of the FOI Act, you are entitled to request a review by the Australian Information Commissioner of my access decision. You may also make a complaint to the Australian Information Commissioner under section 70 of the FOI Act about the Department's performance of its functions or the exercise of power under the FOI Act.

Your request for review or complaint should be directed to:

Office of the Australian Information Commissioner  
GPO Box 5218  
Sydney NSW 2001  
Telephone: 1300 363 992  
Fax: (02) 9284 9666  
Email: [enquiries@oaic.gov.au](mailto:enquiries@oaic.gov.au)

Further information on applying for an Australian Information Commissioner review is available at:  
<https://www.oaic.gov.au/freedom-of-information/foi-review-process>

Further information about how to make a complaint is available at:  
<http://www.oaic.gov.au/freedom-of-information/foi-complaints>

