

Our Ref: EDRM050-37833590-1024

20 January 2021

Dr Vanessa Teague

By email to foi+request-6981-f0aa1c36@righttoknow.org.au

Dear Dr Teague

Response to request for information under the *Freedom of Information Act 1982*

I refer to your request for access to documents of the Victorian Electoral Commission (**VEC**), made under the *Freedom of Information Act 1982* (Vic) (**FOI Act**) and received by on 17 December 2020.

Your request sought access to:

“the complete preference data for the Northwest Ward in the recent Moreland local government election” (request).

The statutory application fee was received by the VEC on 23 December 2020.

I also refer to my email of 13 January 2021, which provided an initial outline of my queries regarding your request.

Section 13 of the FOI Act creates a right of access to documents of a Victorian agency, such as the VEC. Section 17 of the FOI Act sets out the procedural requirements that are to be satisfied before a valid request for access to documents can exist.

Under s 13, a request made under the FOI Act must seek to access *documents*, rather than information. Under s 17(2) of the FOI Act, an FOI request must provide such information concerning the documents sought as is reasonably necessary to enable an agency to identify those documents. That is, a request for access to documents must strive to define with as much precision as possible those documents sought, in terms that will enable the appropriate officer of the agency to constructively search for those documents. If a request is ambiguous, unclear or otherwise ill defined, it does not comply with s 17(2) of the FOI Act and need not be processed.

It is my view that your request does not currently meet the requirements set out in s 13 and s 17(2) of the FOI Act for the following two reasons.

First, you seek to access “complete preference data”, which appears to seek information, rather than documents. Could you please reframe your request to identify the document/s you seek?

Secondly, as stated in my email of 13 January 2021, “preference data” is not a term defined in legislation, and I am unsure what you mean by “complete preference data”. Could you please explain what you mean by this term?

For the above reasons, your request is not validly made in accordance with the FOI Act, and a search for documents cannot reasonably be commenced until you address the matters set out above.

The way forward

I invite you to consult with the VEC, within 21 days from the date you receive this notice, with a view to amending or clarifying the request so that it is in a form that complies with ss 13 and 17 of the FOI Act. To do so, you can contact me on the details below.

Alternatively, you may wish to submit an amended request to clarify the issues raised above or to remove parts of the request.

If you require more time to respond to us because of the holiday break, please let me know when I should expect to hear from you.

Please note that until the request is made in a manner required by s 17 of the FOI Act, it cannot be processed and the 30 day period within which a decision must be made on the request has not commenced to run.

If no amended request is received or consultation about the request has not commenced within 21 days (or another reasonable period you advise me of), the VEC may refuse to comply with the request by treating the request as having lapsed.

I look forward to hearing from you in relation to the above matters. You can respond to me by email at anika.clynick@vec.vic.gov.au.

Yours sincerely



Anika Clynick
Manager, Information Protection