



Our Ref: LS5106 ~ file 144/668

Ms Alecia Wonsack

By email to

[foi+request-716-58a38dcf@righttoknow.org.au](mailto:foi+request-716-58a38dcf@righttoknow.org.au)

Dear Ms Wonsack

**Re Your FOI Request No. LS5106 - Documents and correspondence in relation to Michael Cordover and Matthew Landauer**

I refer to your email of 21 July 2014 3:12 AM in which you request ('FOI Request') documents and correspondence in relation to Michael Cordover and Matthew Landauer under the *Freedom of Information Act 1982* (the 'FOI Act').

2 I am writing to give you a decision under subsection 23(1) of the FOI Act.

**SUMMARY**

3 I, Michael Ross, Acting Chief Legal Officer of the Australian Electoral Commission ('AEC'), am an officer authorised under section 23(1) of the FOI Act to make decisions in relation to FOI requests.

4 Specifically you requested access to documents relating to:

all correspondence and documents, whether written or in email form, from the Special Minister of State's office and/or the Australian Electoral Commission (AEC) relevant to:

- (i) the decision of the AEC to have Mr Michael Cordover declared a vexatious applicant, and
- (ii) the assertion that Mr Matthew Landauer colluded with Mr Cordover to harass the AEC.

5 You also requested that that no names of personnel are censored where not otherwise required by relevant legislation.

6 The AEC has also been informed by Mr Michael Cordover that he consents to the release of documents within the scope of the FO Request containing his personal information.

7 I identified three documents that fell within the scope of your request. I did this by consulting the records of the AEC relating to matter *LS5069 FOI Request by Michael Cordover for Attachment B in a letter from the AEC to OAIC*. Details of those documents and my decision to refuse access to each document are provided in Attachment A to this letter. My reasons for refusing access follow.

## DECISION AND REASONS

### Decision

8 With regards to the documents listed in Attachment A I decided to refuse access to each document because I found that each document was outside of the scope of documents to which Part III of the FOI Act applies. Part III of the FOI Act provides for the making of Freedom of Information Requests for certain documents.

### Material taken into account

9 I have taken the following material into account in making my decision:

- (a) the content of the documents that fall within the scope of your FOI Request;
- (b) documents published on the Right To Know website operated by the Open Australia Foundation at [https://www.righttoknow.org.au/request/attachment\\_b\\_to\\_ls4944#comment-615](https://www.righttoknow.org.au/request/attachment_b_to_ls4944#comment-615);
- (c) the FOI Act (specifically sections 4, 15 and 93A);
- (d) the guidelines (the 'Guidelines') issued by the Australian Information Commissioner under section 93A of the FOI Act (1.27 – 1.28 and 3.6 – 3.15).

### Reasons

10 Document Nos 1, 2 and 3 are published on the internet for reference by the public by the Open Australia Foundation on its website Right To Know: see [https://www.righttoknow.org.au/request/attachment\\_b\\_to\\_ls4944#comment-615](https://www.righttoknow.org.au/request/attachment_b_to_ls4944#comment-615);

11 Subsection 4(1) of the FOI Act defines the word 'document' in the following terms:

#### 4 Interpretation

(1) In this Act, unless the contrary intention appears:

*document* includes:

- (a) any of, or any part of any of, the following things:
  - (i) any paper or other material on which there is writing;
  - (ii) a map, plan, drawing or photograph;

- (iii) any paper or other material on which there are marks, figures, symbols or perforations having a meaning for persons qualified to interpret them;
  - (iv) any article or material from which sounds, images or writings are capable of being reproduced with or without the aid of any other article or device;
  - (v) any article on which information has been stored or recorded, either mechanically or electronically;
  - (vi) any other record of information; or
- (b) any copy, reproduction or duplicate of such a thing; or
  - (c) any part of such a copy, reproduction or duplicate;
- but does not include:
- (d) material maintained for reference purposes that is otherwise publicly available; or
  - (e) Cabinet notebooks

12 In Part III of the FOI Act subsection 15(1) of the FOI Act provides for the making of requests for access to documents. Subsection 15(1) of the FOI Act provides:

**15 Requests for access**

*Persons may request access*

- (1) Subject to section 15A, a person who wishes to obtain access to a document of an agency or an official document of a Minister may request access to the document.

13 Subsection 15A of the FOI Act provides for access to personnel records and is not relevant to the FOI Request.

14 As Document Nos 1, 2 and 3 are made available for reference by the public, the exception in paragraph (d) of the definition of 'document' provided by subsection 4(1) of the FOI Act applies.

15 The outcome of the application of the exception in paragraph (d) of the definition of 'document' provided by subsection 4(1) of the FOI Act is that those addresses are not included in the scope of documents that may be requested under section 15 of the FOI Act. For this reason the FOI Request is invalid.

**Your review rights**

16 If you are dissatisfied with my decision, you may apply for internal review or Information Commissioner review of the decision. We encourage you to seek internal review as a first step as it may provide a more rapid resolution of your concerns.



### **Internal review**

- 17 Under section 54 of the FOI Act, you may apply in writing to the AEC for an internal review of my decision. The internal review application must be made within 30 days of the date of this letter.
- 18 Where possible please attach reasons why you believe review of the decision is necessary. The internal review will be carried out by another officer within 30 days.

### **Information Commissioner review**

- 19 Under section 54L of the FOI Act, you may apply to the Australian Information Commissioner to review my decision. An application for review by the Information Commissioner must be made in writing within 60 days of the date of this letter, and be lodged in one of the following ways:

online: <https://forms.australia.gov.au/forms/oaic/foi-review/>  
email: [enquiries@oaic.gov.au](mailto:enquiries@oaic.gov.au)  
post: GPO Box 2999, Canberra ACT 2601

in person: Level 3, 175 Pitt Street, Sydney NSW

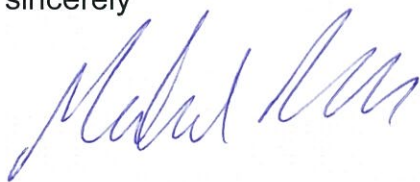
- 20 More information about Information Commissioner review is available on the Office of the Australian Information Commissioner website. Go to [www.oaic.gov.au/foi-portal/review\\_complaints.html#foi\\_merit\\_reviews](http://www.oaic.gov.au/foi-portal/review_complaints.html#foi_merit_reviews).

### **Questions about this decision**

- 21 If you wish to discuss this decision, please contact Owen Jones, Senior Lawyer whose contact details are:

Email: [owen.jones@aec.gov.au](mailto:owen.jones@aec.gov.au)  
Telephone: 02 6271 4528  
Fax: 02 6293 7657

Yours sincerely



Michael Ross  
Acting Chief Legal Officer

1 September 2014

FOI REQUEST NO. LS5106 SCHEDULE OF RELEVANT DOCUMENTS

Request for:

all correspondence and documents, whether written or in email form, from the Special Minister of State's office and/or the Australian Electoral Commission (AEC) relevant to:

- (i) the decision of the AEC to have Mr Michael Cordover declared a vexatious applicant, and
- (ii) the assertion that Mr Matthew Landauer colluded with Mr Cordover to harass the AEC.

Document	Description	Date	Recommendation/Decision
1	Letter from Mr Paul Pirani, Chief Legal Officer of the AEC to Mr Michael Cordover notifying him of the decision made in relation to his FOI Request No. LS5069 FOI Request by <i>Michael Cordover for Attachment B in a letter from the AEC to the Office of the Australian Information Commissioner</i>	4/07/2014	Document No. 1 has been published for reference on the website of Right To Know published by the Open Australia Foundation: see <a href="https://www.righttoknow.org.au/request/attachment_b_to_ls4944#comment-615">https://www.righttoknow.org.au/request/attachment_b_to_ls4944#comment-615</a>  <b>I decided to refuse</b> access to Document No. 1 because the document is outside the scope of documents that may be requested under Part III of the FOI Act.
2	Letter from Mr Paul Pirani, Chief Legal Officer of the AEC to Professor John McMillan AO, Australian Information Commissioner	4/07/2014	Document No. 2 has been published for reference on the website of Right To Know published by the Open Australia Foundation: see <a href="https://www.righttoknow.org.au/request/attachment_b_to_ls4944#comment-615">https://www.righttoknow.org.au/request/attachment_b_to_ls4944#comment-615</a>

			<p>I <b>decided to refuse</b> access to Document No. 2 because the document is outside the scope of documents that may be requested under Part III of the FOI Act.</p>
3	Email from Mr Owen Jones to Mr Michael Cordover	21/07/2014 10:51 AM	<p>Document No. 3 has been published for reference on the website of Right To Know published by the Open Australia Foundation: see <a href="https://www.righttoknow.org.au/request/attachment_b_to_ls4944#comment-615">https://www.righttoknow.org.au/request/attachment_b_to_ls4944#comment-615</a></p> <p>I <b>decided to refuse</b> access to Document No. 3 because the document is outside the scope of documents that may be requested under Part III of the FOI Act.</p>