



Our reference: 14/178919

26 September 2014

Mr Vito Guzzardi

*By email: [foi+request-745-dbc3bfff@righttoknow.org.au](mailto:foi+request-745-dbc3bfff@righttoknow.org.au)*

Dear Mr Guzzardi

### **Freedom of Information Request 14-17**

I refer to your request for access to documents under the *Freedom of Information Act 1982*. This is a decision made under the *Freedom of Information Act 1982* (the FOI Act) in relation to documents within the scope of that request.

### **Background to the Decision**

You have sought access to all documents relating to:

- *any arrangements, including agreements and contracts made between ACC and Mr Stephen Dank regarding assistance and information given by Mr Dank to ACC with respect to the ACC / ASADA investigation whilst Mr Dank was associated to Essendon Football Club (before and after his employment was terminated)*

Your request was received on 22 August 2014 and an acknowledgment letter was sent on 5 September 2014.

### **Authority and Materials Considered**

I am authorised under section 23 of the FOI Act to make a decision concerning the information you have requested access to.

In reaching my decision I have taken into consideration:

- the relevant provisions of the FOI Act;
- the contents of the relevant documents;
- relevant guidelines issued by the Office of the Australian Information Commissioner; and

- relevant Tribunal and Federal Court decisions concerning the operation of the FOI Act.

## **Summary of Decision**

I have refused your request for access to documents because the documents you have sought access to cannot be found or do not exist.

## **Reasons for Decision**

Under section 24A of the FOI Act an agency may refuse access to a document if all reasonable steps have been taken to find the document and the agency is satisfied that the document is in the agency's possession but cannot be found or that the document does not exist.

The ACC has taken comprehensive steps to locate the document, having regard to:

- the subject matter of the documents
- the current and past file management systems and the practice of destruction or removal of documents
- the records management systems in place
- the individuals within the ACC who might have been able to assist with the location of the documents, and
- the age of the documents.

I have interrogated the ACC's main electronic document retention system but no relevant documents were revealed.

A number of staff from relevant line areas conducted searches of ACC information holdings and no document fitting the terms of your request was located.

I consider that reasonable steps have been taken to locate the documents that are the subject of your request. I am satisfied that the documents either cannot be found or do not exist.

## **Your Review Rights**

If you are dissatisfied with this decision you can apply for internal or Information Commissioner review. You do not have to apply for internal review before seeking Information Commissioner review.

### *Internal Review*

You may seek internal review by making an application in writing to the ACC within 30 days of being notified of this decision. A written application for a review should be sent to the FOI officer at [foi@crimecommission.gov.au](mailto:foi@crimecommission.gov.au), or by post to:

FOI Coordinator  
Australian Crime Commission  
GPO Box 1936  
Canberra ACT 2601

### *Information Commissioner Review*

Alternatively, you may apply in writing for review by the Information Commissioner. In making your application you need to provide:

- an address for notices to be sent (this can be an email address)
- a copy of this decision.

It would also help if you set out the reasons for review in your application. Requests for review must be in writing and can be made via the website ([www.oaic.gov.au](http://www.oaic.gov.au)), by email at [enquiries@oaic.gov.au](mailto:enquiries@oaic.gov.au), or by post at:

Office of the Australian Information Commissioner  
GPO Box 2999  
Canberra ACT 2601

If you are objecting to a decision to refuse access to documents you must apply to the Information Commissioner within 60 days of being given notice of the decision. You can contact the Information Commissioner by phone on 1300 363 992.

### **Right to Complain**

You may make a complaint to the Information Commissioner about action taken by the ACC in relation to your application. The complaint needs to be in writing and identify the agency against which the complaint is made.

The Information Commissioner may be contacted on 1300 363 992. There is no particular form required to make a complaint, but the complaint should set out the grounds on which you consider the action should be investigated.

Yours sincerely,

Amy Dyde  
FOI Delegate