



Australian Government

Department of the Prime Minister and Cabinet

FOI

ONE NATIONAL CIRCUIT
BARTON

FOI/2013/033

Mr James Gray
Email: foi+request-76-9b415fd5@righttoknow.org.au

Dear Mr Gray

I am writing in relation to your email dated 13 April 2013 received by the Department of the Prime Minister and Cabinet (the Department). Your email requested an internal review of an FOI request previously made by you, to the Department, under the *Freedom of Information Act 1982* (the FOI Act).

On 3 April 2013, the Department advised you that your FOI request (FOI/2013/033) had been transferred to the Department of the Treasury (Treasury). I enclose a copy of the the Department's correspondence. As your FOI request was transferred to the Treasury you do not have any internal review rights with the Department at this stage. Should you wish to seek internal review of any decision made by the Treasury in relation to your FOI request, you will need to send your request to the Treasury.

If you would like to make a complaint in respect of how your FOI request has been handled by this Department, please contact the Office of the Australian Information Commissioner (OAIC). I have enclosed the relevant OAIC fact sheet for your information.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'G. Gray'.

FOI Adviser
Legal Policy Branch

30 April 2013



Australian Government

Department of the Prime Minister and Cabinet

ONE NATIONAL CIRCUIT
BARTON

FOI

FOI/2013/033

Mr James Gray
foi+request-76-9b415fd5@righttoknow.org.au

Dear Mr Gray

I write in relation to your email of 13 March 2013 to the Department of the Prime Minister and Cabinet (the Department) seeking access under the *Freedom of Information Act 1982* (the FOI Act) to documents in the following terms:

IT IS MY WILL that you provide me with evidence that the corporation registered in the United States of America as the Commonwealth of Australia [...] is the same organisation as the Commonwealth of Australia, which is authorized in the Commonwealth of Australia Constitution [...] by the Queen of England and her successors.

IT IS MY WILL that you provide me with evidence that shows where the Commonwealth of Australia Constitution authorizes the Commonwealth of Australia to become a corporation registered in the United States of America.

IT IS MY Will that a referendum be held that gives the electors of Australia the opportunity to vote for or against the Commonwealth of Australia being a registered corporation in the United States of America. This request only applies if the Commonwealth of Australia, registered in the United States of America as a corporation, is the same organisation as the Commonwealth of Australia that is our Government.

The FOI Act provides a mechanism to transfer requests to another agency where the documents sought are in the possession of another agency (section 16(1)(a) of the FOI Act) or the subject-matter of the request is more closely connected with the functions of that agency (section 16(1)(b) of the FOI Act). This ensures that a decision on the request is made by the most appropriate agency.

Having regard to the documents listed in the link you provided in your email to the web site of the US Securities and Exchange Commission it appears that those documents were lodged by or on behalf of the Treasury. Accordingly, the subject-matter of the request appears to be more closely connected with the functions of the Treasury.

The Treasury has accepted transfer of your request in full, in accordance with section 16(1)(b) of the FOI Act. If it has not already done so, I expect that the Treasury will contact you soon in relation to your request.

If you have any queries, I can be contacted by telephone on (02) 6271 5849 or by email at FOI@pmc.gov.au.

Yours sincerely

A handwritten signature in black ink, appearing to be 'M. S.', written in a cursive style.

FOI Adviser
Legal Policy Branch

3 April 2013



Freedom of information – How to make a complaint

October 2010

You may complain to the Australian Information Commissioner if you have concerns about how an Australian Government agency handled a request for documents under the *Freedom of Information Act 1982* (the FOI Act) or took any other action under that Act. If you are unhappy with the agency's decision about giving or refusing access to documents, you should ask for the decision to be reviewed, which is a separate process.

Disagree with an FOI decision?

If you disagree with an agency's or minister's decision on your request under the FOI Act, you have the right to have the decision reviewed. You can ask an agency to review its decision internally. You also have the right to ask the Information Commissioner to review an agency's or minister's decision. See **FOI Fact Sheet 12 Freedom of information – Your review rights** for more information about the review process.

If you are concerned about the way an agency has handled your matter, you can complain to the Information Commissioner.

What are the powers of the Information Commissioner?

The Information Commissioner can investigate a complaint about how an agency handled an FOI request, or other actions the agency took under the FOI Act. The Information Commissioner cannot investigate a complaint about a minister.

In conducting the investigation the Information Commissioner has the power to:

- make inquiries of an agency
- obtain information from any person
- take possession of, or inspect, any relevant documents.

If the Information Commissioner decides to investigate your complaint, the agency you have complained about will be notified in writing of the complaint. The Information Commissioner conducts investigations of complaints in private.

Who can make a complaint?

Any person can make a complaint about the actions of an agency in relation to an FOI activity. You do not need to have requested documents under the FOI Act.

When should I make a complaint?

You can complain to the Information Commissioner at any time. If your complaint relates to an FOI request you can make the complaint at any stage of the process.

Before making a complaint to the Information Commissioner, you should contact the agency directly to try to resolve your concerns. The Information Commissioner may decide not to investigate your complaint if you have not raised your concerns first with the agency or you have not given the agency a reasonable opportunity to deal with your complaint.

How do I make a complaint?

Your complaint must be in writing and must specify the agency you are complaining about. You can send your complaint to us using the details at the end of this fact sheet. A complaint form is also available on our website at www.oaic.gov.au.

If you need help we can assist you. You can contact us on 1300 363 992 or by email to enquiries@oaic.gov.au.

What information do I need to put in the complaint?

To help the Information Commissioner give the best consideration to your complaint, please provide as much relevant information as possible. Be clear about the issues in your complaint and what action or outcome you would like to see as a result.

Is there a fee for making a complaint?

No. There are no costs involved in making a complaint to the Information Commissioner.

What will happen to my complaint?

An officer of the Information Commissioner will contact you to discuss your complaint and you will be kept informed of the progress of your complaint along the way.

Before deciding whether to investigate your complaint the Information Commissioner may make preliminary inquiries of the agency you have complained about.

If the Information Commissioner decides to investigate your complaint, the Commissioner will write to the agency and request information to assist with the investigation.

Can the Information Commissioner decide not to investigate my complaint?


Yes. The Information Commissioner may decide not to investigate, or may discontinue an investigation, if:

- your complaint does not concern an agency's action under the FOI Act
- it is more appropriate for you to complain to another body (such as the agency or the Commonwealth Ombudsman)
- it is more appropriate for you to ask for the decision to be reviewed
- the agency you complained about has dealt with your complaint, or is in the process of dealing with it
- your complaint is frivolous, lacking in substance or not made in good faith
- you do not have sufficient interest in the matter.

If the Information Commissioner decides not to investigate or discontinues an investigation, the Commissioner will notify you and the agency of the reasons for this in writing.

How will my complaint be resolved?

In some cases the Information Commissioner's investigation and intervention may result in the agency addressing the issues that you have complained about. In other cases the Information Commissioner may make suggestions or recommendations that the agency should implement. You and the agency will be notified in writing of the outcome of the investigation.



If an agency fails to take adequate and appropriate action to implement any recommendations, the Information Commissioner may issue a formal implementation notice. This notice requires the agency to explain what action it will take to implement the recommendations. The Information Commissioner may also provide a written report to the minister responsible for the agency, and the report will be tabled in Parliament.

Your name will not be included in the report unless there is a special reason and you were first consulted.

Investigation by the Ombudsman

The Commonwealth Ombudsman can also investigate complaints about action taken by agencies under the FOI Act. However, if the issue complained about either could be or has been investigated by the Information Commissioner, the Ombudsman will consult the Information Commissioner to avoid the same matter being investigated twice. If the Ombudsman decides not to investigate, the complaint and all relevant documents must be transferred to the Information Commissioner.

The Information Commissioner can also transfer to the Ombudsman a complaint that could more appropriately be investigated by the Ombudsman. This could occur where the FOI complaint is only one part of a wider grievance about an agency's actions. It is unlikely that this will be common. You will be notified in writing if your complaint is transferred.

The information provided in this fact sheet is of a general nature. It is not a substitute for legal advice.

For further information

telephone: 1300 363 992

email: enquiries@oaic.gov.au

write: GPO Box 2999, Canberra ACT 2601
or visit our website at

www.oaic.gov.au