

13 September 2021

Mr Phillip Sweeney

By email: foi+request-7684-76239a44@righttoknow.org.au

Reference number: IA-1461

Notice of Decision - Freedom of Information request

Dear Mr Sweeney

I refer to your request submitted to the Fair Work Ombudsman (FWO) on 14 August 2021 under the *Freedom of Information Act 1982 (FOI Act)* for access to documents held by the Fair Work Ombudsman (FWO). Specifically, you requested:

"Copy (or copies) of legal advice obtained by the Fair Work Ombudsman that would justify its position that it would be "fair and reasonable" for employers to sack employees who refused to take part in medical trials when one of the known side effects of so-called COVID-19 'vaccines' is death"

Processing timeframe

The statutory period for processing a request is 30 days unless it is extended by agreement under s 15AA or by the Office of the Australian Information Commissioner (OAIC) under s 15AB, or in accordance with section 15(6) of the FOI Act to consult with third parties. The due date for a decision on this request is 13 September 2021.

Matters taken into account in making my decision

In making my decision, I took the following matters into account:

- the scope of the request
- the search response
- the FOI Act
- the Australian Information Commissioner's [FOI Guidelines](#)
- internal consultation

Searches

A thorough and diligent search was conducted of FWO records held by the Legal Team to identify any documents falling within the scope of your request.

DECISION

Section 24A(1) of the FOI Act provides that an agency may refuse a request for access to a document if all reasonable steps have been taken to find the document, and the agency is satisfied that the document does not exist.

No documents were located in FWO records held by the relevant business areas falling within the scope of your request.

Further information

The Office of the Fair Work Ombudsman is established by the *Fair Work Act 2009* which clearly defines the role and responsibility of the Fair Work Ombudsman.

You may find it helpful in terms of understanding what types of information and documents the FWO holds to review information about the FWO and its role and purpose, together with supporting documents that guide FWO operations at the [FWO website](#).

Review rights

I have attached a document setting out your rights of review of this decision at **Attachment A**.

Contact details

For further information, please email foi@fwo.gov.au.

Yours sincerely



Nicola Forbes
Director Information Governance
Fair Work Ombudsman

Attachment A

INFORMATION ON RIGHTS OF REVIEW & COMPLAINTS

Rights of review

If you are dissatisfied with this decision you can apply for internal review by this agency (Option 1 below) or external review by the Australian Information Commissioner (IC Review) (Option 2 below).

You do not have to apply for internal review before seeking IC review. However, the Information Commissioner has expressed the view that it is preferable for a person to seek internal review by the agency before applying for IC Review. If you choose Option 1 (internal review), you can also apply for IC review of the internal review decision within 60 days after receiving notice of our review decision.

Option 1 – Internal review

You can seek internal review of the decision. An application for internal review must be made in writing within 30 days after the date you were notified of the decision, or within such further period as the Fair Work Ombudsman allows. The internal review will be conducted by a senior officer who had no involvement in the initial decision.

There is no particular form required to make a request for internal review. However, it would help the reviewer if you said, in writing, why you think the decision should be reviewed. An application for an internal review of the decision should be sent to:

Email: foi@fwo.gov.au

FOI Manager

GPO Box 9887

MELBOURNE VIC 3001

Option 2 – Review by the Australian Information Commissioner

Alternatively, you can apply in writing to the Australian Information Commissioner for IC review of the decision.

An application for IC Review must be made within 30 days after the day you were given notice of this decision and the decision relates to an access grant decision (s 54M(2)(a))¹ or 60 days where the decision relates to an ‘access refusal decision’ (s 54L(s)(a)):²

In making your application, you need to provide an address for notices to be sent (this can be an email address) and a copy of this decision. It would also help the Australian Information Commissioner if you set out the reasons for seeking IC review in your application.

To apply for IC review, please refer to the relevant information issued by the Office of the Australian Information Commissioner. You can file your application online or download a review form from the OAIC’s website via www.oaic.gov.au.

Complaints

You can complain to the Australian Information Commissioner about action taken by the Fair Work Ombudsman in relation to your freedom of information request. Your complaint must be in writing and it is the Information Commissioner’s preference that an online complaint form is completed. Alternatively, you can send a letter to the Office of the Australian Information Commissioner, GPO Box 5218, Sydney NSW 2001 or send an email to enquiries@oaic.gov.

¹ An “access grant decision” is defined in s 53B of the FOI Act to mean a decision to grant access to a document where there is a requirement to consult with a third party under ss 26A, 27 or 27A.

² An “access refusal decision” is defined in s 53A of the FOI Act and Part 10 of the FOI Guidelines at <https://www.oaic.gov.au/freedom-of-information/foi-guidelines/part-10-review-by-the-information-commissioner/>