



Concerned Citizen

Concerned Citizen foi+request-7911-72cd3fb3@righttoknow.org.au

14 October 2021

Dear Concerned Citizen,

Freedom of Information Request - FOI 227/2021

I refer to your email of 30 September 2021 seeking access under the Commonwealth *Freedom of Information Act 1982* (the FOI Act) to:

'any emails sent or received by the Digital Transformation Agency between the 1st of March 2021 and the 10th of March 2021 that contain the terms "COVIDSafe" and ("review" or "reviews" or "rating" or "5 star").'

I am authorised to make decisions under subsection 23(1) of the FOI Act and my decision regarding your request and the reasons for my decision are set out below.

Decision

I am satisfied that all reasonable steps have occurred to locate the requested documents and that these documents do not exist. Therefore, I refuse your application under s 24A of the FOI Act on the basis that no documents exist.

Reasons for my decision

Freedom of Information Act 1982 section 24A

(1) An agency or Minister may refuse a request for access to a document if:

(a) all reasonable steps have been taken to find the document; and

(b) the agency or Minister is satisfied that the document:

(i) is in the agency's or Minister's possession but cannot be found; or

(ii) does not exist.

On 1 October 2021 DTA's Records Management team conducted an extensive search across DTA's systems using the search terms as articulated in the scope of the request. The results were inconclusive because the search term captured every document. For example:

The term "review" appears in some standard email footers - see below

IMPORTANT: This message, and any attachments to it, contains information that is confidential and may also be the subject of legal professional or other privilege. If you are not the intended recipient of this message, you must not review, copy, disseminate or disclose its contents to any other party or take action in reliance of any material contained within it. If you have received this message in error, please notify the sender immediately by return email informing them of the mistake and delete all copies of the message from your computer system.

On 6 October 2021 you were informed of our findings and instructed DTA to find a manageable outcome for your request.

On the same day, the FOI Officer made enquiries into locating the requested documents and found that no review of COVID Safe occurred during 1 March 2021 and 10 March 2021. Additionally, the terms '5 star/ ratings' is not used by DTA to assess performance, which is why we could not find documents with the scope of your request.

Based on these findings, I am satisfied that the searches conducted were thorough and all reasonable steps have been taken to locate documents relevant to your request. I am satisfied that the documents referred to in your request do not exist and refuse your request in accordance with section 24A of the FOI Act.

Relevant material

In reaching my decision I referred to the following:

- the terms of your request;
- the FOI Act;
- Guidelines published by the Office of the Information Commissioner under section 93A of the FOI Act (the FOI Guidelines); and
- advice from departmental officers with responsibility for matters relating to the documents to which you sought access.

Review rights

If you are dissatisfied with this decision, you have certain rights of review available to you. Firstly, under section 54 of the FOI Act, you may apply to DTA for an internal review of the decision. Your application must be made by whichever date is the later between:

- 30 days of you receiving this notice; or
- 15 days of you receiving the documents to which you have been granted access

An internal review will be conducted by a different officer from the original decision-maker.

No particular form is required to apply for review although it will assist your case to set out in the application the grounds on which you believe that the original decision should be overturned. An application for a review of the decision should be addressed to: foi@dtg.gov.au

If you choose to seek an internal review, you will subsequently have a right to apply to the Australian Information Commissioner for a review of the internal review decision.

Review by the Australian Information Commissioner

Alternatively, under section 54L of the FOI Act, you may seek review of this decision by the Australian Information Commissioner without first going to internal review. Your application must be made within 60 days of you receiving this notice.

The Australian Information Commissioner is an independent office holder who may review decisions of agencies and Ministers under the FOI Act. More information is available on the Australian Information Commissioner's website www.oaic.gov.au.

You can contact the Information Commissioner to request a review of a decision online or by writing to the Information Commission at:

Director of FOI Dispute Resolution
GPO Box 5218
SYDNEY NSW 2001

Complaints to the Australian Information Commissioner

You may complain to the Australian Information Commissioner about action taken in relation to your request.

Your enquiries to the Australian Information Commissioner can be directed to:
Phone 1300 363 992 (local call charge)
Email enquiries@oaic.gov.au

There is no particular form required to make a complaint to the Australian Information Commissioner. The request should be in writing and should set out the grounds on which it is considered that the action taken in relation to the request should be investigated and identify the DTA as the relevant agency.

Contacts

If you have any queries about this notice, please contact the FOI team by email foi@dta.gov.au.

Regards

Anthony Warnock
Chief Technology Officer
FOI Authorised Decision Makers