

25 November 2021

Nathan

By email: foi+request-8018-cbc16167@righttoknow.org.au

Dear Nathan

DECISION – FOI REQUEST REF. NO. 202122-031 – INDEPENDENT EXPERT REPORT

I refer to your email sent Thursday 26 October 2021 requesting access under the *Freedom of Information Act 1982* (the **FOI Act**) to:

The Expert Report commissioned by the ABC pursuant to the FWO Enforceable undertaking set out in the below undertaking that states:

The ABC must ensure that the Independent (Expert Report) of its Independent Assessment, setting out its findings and recommendations, circumstances supporting its findings by no later than [sic] in writing [sic] the Independent Expert. The Expert does not provide the Expert Report, without the FWO's approval.

A decision on your request is due by Thursday **25 November** 2021.

Authorisation

I am authorised by the Managing Director of the ABC to make decisions about FOI requests, under section 23 of the FOI Act.

Decision

No documents were found to exist in relation to your request. Under s 24A of the FOI Act, access is considered to be refused.

Material taken into account

In making my decision I have considered:

- the scope of your request
- the content of the documents requested
- the FOI Act
- the guidelines issued by the Office of the Australian Information Commissioner under section 93A of the FOI Act (**the Guidelines**)

Locating and identifying documents

The search for documents included approaching senior staff within our People & Culture team. These staff members have confirmed there is no document as described in your request held by the ABC. I consider that all reasonable steps were taken to identify and locate all relevant documents that answer your request.

I am satisfied that the searches conducted were thorough and all reasonable steps have been taken to locate documents relevant to your request.

Reasons for decision

Section 24A of the FOI Act states that an agency may refuse a request for access to a document when all reasonable steps have been taken to find a document, and the agency is satisfied that the document either cannot be found or does not exist.

I am satisfied that the searches conducted were thorough and all reasonable steps have been taken to locate the documents relevant to your request, and that no documents are held by the ABC.

Further information

As required by the Enforceable Undertaking, the ABC has arranged an independent expert to report directly to the Fair Work Ombudsman.

Review rights

Your review rights are set out in **Annexure A**.

Yours sincerely

A handwritten signature in black ink, appearing to read 'P Longstaff', is written over a light grey rectangular background.

Pamela Longstaff
Head of Corporate Governance & FOI Decision Maker
foi.abc@abc.net.au

Annexure A – Your Review Rights

If you are dissatisfied with this decision you can apply for Internal Review by the ABC, or Information Commissioner (IC) Review. You do not have to apply for Internal Review before seeking IC Review.

APPLICATION FOR INTERNAL REVIEW

You have the right to apply for an internal review of the decision refusing to grant access to documents in accordance with your request. If you apply for an internal review, the Managing Director will appoint an officer of the Corporation (not the person who made the initial decision) to conduct a review and make a fresh decision.

You must apply in writing for an internal review of the decision within 30 days of receipt of this letter. No particular form is required, although it would help if you set out the reasons for review in your application.

Application for a review of the original decision should be emailed to ABC: foi.abc@abc.net.au

or addressed to: The FOI Coordinator
 ABC
 Level 13
 700 Harris Street
 ULTIMO NSW 2007

Application for Information Commissioner (IC) Review

Alternatively, you have the right to apply for a review by the Information Commissioner of the decision refusing to grant access to documents in accordance with your request. Your application must:

- be in writing;
- be made within 60 days of receipt of this letter;
- give details of how notices may be sent to you (for instance, by providing an email address); and
- include a copy of the decision for which a review sought.

The Information Commissioner has a discretion not to undertake a review (see Division 5, FOI Act). Please refer to the OAIC website FOI review process page for further information and/or to access the online form for applying for IC review:

<https://www.oaic.gov.au/freedom-of-information/foi-review-process>

Alternatively, application for IC Review can be emailed to: enquiries@oaic.gov.au or

addressed to: Director of FOI Dispute Resolution
 GPO Box 5218
 Sydney NSW 2001

COMPLAINTS TO THE INFORMATION COMMISSIONER

You may complain to the Information Commissioner about any action taken by the ABC in the performance of functions, or exercise of powers, under the FOI Act. The Information Commissioner may make inquiries for the purpose of determining whether or not to investigate a complaint.

Complaints can be made in writing to: OAIC - GPO Box 5218 Sydney NSW 2001