

LEX2036

JS

By email: [foi+request-8619-490d8d5b@righttoknow.org.au](mailto:foi+request-8619-490d8d5b@righttoknow.org.au)

Dear JS

### Your Freedom of Information Request No. LEX 2036

On 18 February 2022 you wrote to the Australian Electoral Commission (**AEC**) seeking access under the *Freedom of Information Act 1982* (the FOI Act) to:

Sky News Australia reports that Peta Credlin is to delve into the tactics and power plays of a federal election in new Sky News Australia investigation 'The Campaign Uncovered'

Sky News Australia reports that the documentary examines the funding of some of the so-called independent candidates

...

Under FOI I seek access to documents concerning or relating to the involvement of the Australian Electoral Commissioner Tom Rogers, in the documentary.

On 17 March 2022, the AEC made a decision on your request. On 22 April 2022, you sought internal review of that decision to the extent the decision-maker failed to find all documents within the scope of the request.

This letter sets out my decision on internal review.

I am an authorised decision-maker under section 23 of the FOI Act.

### Timeframe for processing your request

Your request was received by the AEC on 22 April 2022. The statutory period for processing your request is 30 days.

Accordingly, the time frame for processing your request expires on 22 May 2022.

### Decision

Having regard to the process and findings below, I am satisfied that reasonable steps to locate the documents to which you have sought access were undertaken.

I am also satisfied that there are no additional documents within the scope of your request held by the AEC.

I have therefore decided to **affirm** the original decision-maker's decision.

## Review Process

To identify documents for your request, I arranged for relevant staff likely to be able identify documents to undertake another comprehensive search of the relevant electronic holdings used by the AEC. In particular, the staff responsible for arranging the interview were tasked with specifically searching any additional relevant documentation related to Tom Rogers' participation in the SkyNews documentary.

Despite these efforts, no additional relevant documentation was discovered. Only the documents found in the course of the original decision-maker's searches were found.

## Relevant material and considerations

In reaching my decision I referred to the following:

- the terms of your request
- the documents relevant to your internal review request;
- the FOI Act;
- the *Commonwealth Electoral Act 1918*
- Guidelines published by the Office of the Information Commissioner under section 93A of the FOI Act; and
- consultation responses from third parties consulted in accordance with the FOI Act.

Section 24A of the FOI Act relevantly provides that an agency or Minister 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:

- is in the agency's possession but cannot be found, or
- does not exist.

When considering a decision to refuse access under section 24A of the FOI Act, the Guidelines relevantly provide at paragraph 3.89 that an agency or minister should take comprehensive steps to locate documents, 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 record management systems in place,
- the individuals within an agency or minister's office who may be able to assist with the location of documents, and
- the age of the documents.

## Charges

No charges have been imposed for the processing of this request.

## Review Rights

You are entitled to seek review of this decision. **Attachment A** sets out your rights to apply for review if you are dissatisfied with my decision.

Yours sincerely



Louise Parrott  
Principal Government Lawyer

20 May 2022

## Attachment A - Review rights

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You are entitled to seek review of this internal review.

### Review by the Australian Information Commissioner

Under section 54L of the FOI Act, you may seek review of this decision by the Australian Information Commissioner. 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](http://www.oaic.gov.au).

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

GPO Box 2999  
Canberra ACT 2601

### Complaints to Ombudsman or Australian Information Commissioner

You may complain to either the Commonwealth Ombudsman or the Australian Information Commissioner about action taken by the AEC in relation to your request. The Ombudsman will consult with the Australian Information Commissioner before investigating a complaint about the handling of an FOI request.

Your enquiries to the Ombudsman can be directed to:

Phone 1300 362 072 (local call charge)  
Email [ombudsman@ombudsman.gov.au](mailto:ombudsman@ombudsman.gov.au)

Your enquiries to the Australian Information Commissioner can be directed to:

Phone 1300 363 992 (local call charge)  
Email [enquiries@oaic.gov.au](mailto:enquiries@oaic.gov.au)

There is no particular form required to make a complaint to the Ombudsman or 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 AEC as the relevant agency.