



Australian Government
Australian Public Service Commission

Marcus

By email: foi+request-8917-682d4178@righttoknow.org.au

Our reference: <SHC22-28945><LEX192>

Dear Marcus

Freedom of Information request

1. I am writing about your 16 June 2022 internal review request made under the *Freedom of Information Act 1982* (FOI Act), of a decision issued by the Australian Public Service Commission (Commission).
2. The FOI Act and all other Commonwealth legislation referred to in this letter are publicly available from www.legislation.gov.au

Background

3. On 17 May 2022 you requested access to the following documents under the FOI Act:
 - a) the vacancy notification published in the Public Service Gazette for the "Director, Integrity" role that Kate McMullan applied for and was recruited to fill;*
 - b) the classification notification for the "Director, Integrity" role that Kate McMullan applied for and was recruited to fill;*
 - c) any and all promotion notices published in the Public Service Gazette identifying Ms McMullan's promotion to the "Director, Integrity" role that Kate McMullan applied for and was recruited to fill;*
 - d) the position description for the "Director, Integrity" role that Kate McMullan applied for and was recruited to fill;*
 - e) the delegation provided to Ms McMullan or to the person holding the "Director, Integrity" role to conduct investigations under the Public Interest Disclosure Act 2013 (this delegation would have to have been made before she conducted her investigation);*

f) any documents setting out the criteria that the Australian Public Service Commissioner considers in determining if a person is suitable to hold a delegation to conduct investigations under the Public Interest Disclosure Act 2013.”

4. On 16 June 2022, the Commission sent you an email containing a decision notice from Ms Giorgina Strangio, Authorised FOI decision maker responding to your request. Ms Strangio located five documents falling within scope of your request, and granted you full access to those documents.

Decision on your request for internal review

5. I am authorised under subsection 23(1) of the FOI Act to make FOI internal review decisions.
6. My role is to make a new decision on your request for internal review independently and impartially from the original decision maker. I was not involved or consulted in the making of Ms Strangio’s decision. Internal review is a merit review process and I may exercise all the powers available to the original decision maker.
7. After considering your request, I have decided to vary Ms Strangio’s decision to grant you full access to two additional documents.

Reasons for decision

8. In making my decision on your internal review, I have had regard to:
 - a) the terms of your request;
 - b) relevant provisions of the FOI Act; and
 - c) The FOI guidelines on the Office of the Australian Information Commissioner (OAIC) website.
9. I am satisfied that your request was valid under subsection 15(2) of the FOI Act and the scope of your request was sufficiently defined so that the Commission could locate the documents that you were seeking access to.
10. I have considered the terms of your internal review request in which you submit Ms Strangio did not address Parts B and F of your original request.

Part B – *“the classification notification for the "Director, Integrity" role that Kate McMullan applied for and was recruited to fill”*

11. The right of access under the FOI Act is to existing documents. I am satisfied that all reasonable steps have been taken to find any documents relevant to Part B of your request.
12. While I have not been able to locate a ‘classification notification’ as a standalone document, the position classification, being Executive Level 2, is provided in the documents Ms Strangio granted you access to.

Part F – “*any documents setting out the criteria that the Australian Public Service Commissioner considers in determining if a person is suitable to hold a delegation to conduct investigations under the Public Interest Disclosure Act 2013*”

13. Further searches have located one document within scope of Part F. I have decided to grant you full access to the document.

Part D – “*Position description*”

14. While you have not sought review about Part D of your original request, further searches have located an additional document I consider falls within the scope of Part D of your request. I have decided to grant you full access to that document.

15. On this basis, I vary the original decision.

Contacts

16. If you require clarification on matters in this letter please contact the Commission’s FOI Officer by email at foi@apsc.gov.au

Review rights

17. You are entitled to seek review of this decision. Your review rights are set out at **Attachment A**.

Yours sincerely



Sita Jackson
Authorised FOI decision maker

18 July 2022

Rights of Review

Asking for a full explanation of a Freedom of Information decision

If you are dissatisfied with this decision, you may seek review. Before you seek review of a Freedom of Information (FOI) decision, you may contact us to discuss your request and we will explain the decision to you.

Applying for external review by the Australian Information Commissioner

If you do not agree with the original FOI decision or the internal review decision, you can ask the Australian Information Commissioner to review the decision. You have 60 days to apply in writing for a review by the Office of the Australian Information Commissioner (the OAIC) from the date you received this letter or any subsequent internal review decision.

You can **lodge your application**:

Online: www.oaic.gov.au

Post: Australian Information Commissioner
GPO Box 5218
SYDNEY NSW 2001

Email: enquiries@oaic.gov.au

The OAIC encourage applicants to apply online. Where possible, to assist the OAIC you should include your contact information, a copy of the related FOI decision and provide details of your reasons for objecting to the decision.

Complaints to the Information Commissioner and Commonwealth Ombudsman

Information Commissioner

You may complain to the Information Commissioner concerning action taken by an agency in the exercise of powers or the performance of functions under the FOI Act. There is no fee for making a complaint. A complaint to the Information Commissioner must be made in writing. The Information Commissioner's contact details are:

Telephone: 1300 363 992

Website: www.oaic.gov.au

Commonwealth Ombudsman

You may complain to the Ombudsman concerning action taken by an agency in the exercise of powers or the performance of functions under the FOI Act. There is no fee for making a complaint. A complaint to the Ombudsman may be made in person, by telephone or in writing. The Ombudsman's contact details are:

Phone: 1300 362 072

Website: www.ombudsman.gov.au