



**Australian Government**  

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**Australian Public Service Commission**

Raphael

By email: [foi+request-9012-e0f5fa46@righttoknow.org.au](mailto:foi+request-9012-e0f5fa46@righttoknow.org.au)

Our reference: LEX 220

Dear Raphael,

**Freedom of Information request**

1. I am writing about your 1 July 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](http://www.legislation.gov.au)

**Background**

3. On 11 June 2022 you requested access to the following documents under the FOI Act:

*“a) position description document; and*

*b) classification evaluation document; and*

*c) vacancy notification document published in the Public Service Gazette;*

*for the Assistant Commissioner, Enabling Services position that that Marco Spaccavento applied for and came to fill.*

*The position in question is the "Assistant Commissioner, Workplace Relations". Marco Spaccavento applied for and came to fill that position.”*

4. On 1 July 2022, the Commission sent to you an email containing a decision notice dated 1 July 2022 from Charmaine Sims responding to your request.
5. Ms Sims advised you in her decision letter that the Commission had:
  - located one document in scope of Parts A and C of your request and granted you access to that document in full; and

- taken reasonable steps to find documents relevant to Part B of your request and no documents had been found and, as such, refused your request for access under section 24A of the FOI Act in relation to Part B.
6. On 1 July 2022, you requested internal review of Ms Sims' decision. Specifically, Part B of your request regarding the classification evaluation document.

### **Decision on your request for internal review**

7. I am authorised under subsection 23(1) of the FOI Act to make FOI internal review decisions.
8. 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 Sims' decision. Internal review is a merit review process and I may exercise all the powers available to the original decision maker.
9. After considering your request, I am affirming Ms Sims' initial decision in relation to Part B of your request.
10. I am satisfied that all reasonable steps have been taken to find any documents within the scope of Part B of your request and no documents were found. I trust my explanation below sufficiently clarifies the reason why a classification evaluation document does not exist.

### **Further explanation**

11. The reason why there are no documents for Part B of your request is because the position that Mr Spaccavento applied for was not a new role. The position was advertised and backfilled by Mr Spaccavento after the substantive occupant vacated it.

### **Contacts**

12. If you require clarification on matters in this letter please contact the Commission's FOI Officer by telephone on (02) 6202 3720 or by email at [foi@apsc.gov.au](mailto:foi@apsc.gov.au)

### **Review rights**

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

Yours sincerely



Giordina Strangio  
Authorised FOI decision maker

28 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](http://www.oaic.gov.au)

Post: Australian Information Commissioner  
GPO Box 5218  
SYDNEY NSW 2001

Email: [enquiries@oaic.gov.au](mailto: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](http://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](http://www.ombudsman.gov.au)