



Australian Government

Department of Finance

Reference: FOI 22/42 IR
Contact: FOI Team
E-mail: foi@finance.gov.au

Andrew
Right to Know

By email only: foi+request-9024-14c70a5a@righttoknow.org.au

Dear Andrew

Freedom of Information Internal Review Request – FOI 22/42

On 15 June 2022, the Department of Finance (Finance) received your email, in which you sought access under the Commonwealth *Freedom of Information Act 1982* (FOI Act) to the following:

Any currently-valid organisational charts that show the position of the Electoral Policy Unit within the Department's organisational structure. I do not want the contact details of any employees, nor the names of any employees whose rank is EL1 or lower.

A list of all files (in the records management sense of container objects or "folders") from the Department's primary records management system, created from 2017 to the present, where the file is owned or otherwise associated with the Electoral Policy Unit.

Original Decision

A document containing a list of all files from the Electoral Policy team did not exist in a discrete form. Finance, under section 17 of the FOI Act, used existing software to produce a list of folder names.

The original decision maker considered that the work involved would involve a substantial and unreasonable diversion of Finance's resources.

On 5 July 2022, Finance sent you a request consultation notice.

On 18 July 2022, you responded seeking to proceed with the request.

On 27 July 2022, Finance notified you of the original decision maker's decision to refuse your request, on the basis that a practical refusal reason existed, being that it would be a substantial and unreasonable diversion of resources to process your request.

Internal review request

On 28 July 2022, Finance received your email, in which you sought an internal review of Finance's original decision, adding the following comments:

I draw the attention of the reviewer to my earlier correspondence regarding this matter. Unless there are some fundamental peculiarities of the Department's record-keeping practices that I am unaware of, I regard the decision maker's estimate of 148 hours of decision making time to be far beyond any reasonable timeframe for reading through the results of a query to the Department's EDRMS system.

For the avoidance of all possible doubt, as I believe I have made clear in the terms of my request and subsequent correspondence, I am not asking for the contents of the relevant files, but rather a document created (in accordance with section 17 of the Act) from the Department's EDRMS system, that merely contains a list of relevant files (i.e. a list of file numbers and titles).

Having further considered your original request and those additional comments, the purpose of this letter is to provide you with notice of my internal review decision under the FOI Act.

Internal Review Decision

Document 1 contains an organisational chart showing the position of the Electoral Policy unit within Finance's organisational structure, and is relevant to the scope of your request. I have decided to release this document to you.

I consider the original decision to be inconsistent with the scope of your request and additional comments. A document has been created following consideration of your request for an internal review. Document 2 contains a list of the Electoral Policy unit's folders. I have decided to release this document to you.

In making my decision, I have had regard to the following:

- the terms of your original FOI request and your request for an internal review of the original decision;
- additional information that you provided to the FOI team;
- the original decision sent to you on 27 July 2022;
- the content of the Documents 1 and 2 that falls within the scope of your request;
- the relevant provisions of the FOI Act; and
- the FOI Guidelines issued by the Office of the Australian Information Commissioner (FOI Guidelines).

Authorised decision-maker

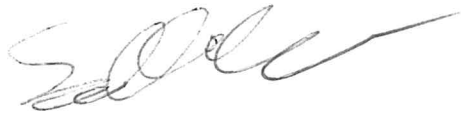
I am authorised by the Secretary of Finance to grant or refuse access to Documents 1 and 2.

Review and appeal rights

You are entitled to request an external review by the Office of the Australian Information Commissioner of my decision. The process for review and appeal rights is set out at Attachment A. Publication. Finance will publish the documents released to you on our [Disclosure Log](#). Finance's policy is to publish the documents within one working day after they are released to you.

If you have any questions in regards to this request, please contact the FOI Team on the above contact details.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'SDilley', with a long horizontal stroke extending to the right.

Scott Dilley
First Assistant Secretary
Governance | Governance and Resource Management
Department of Finance
29 August 2022



Australian Government

Department of Finance

Freedom of Information – Your Review Rights

If you disagree with a decision made by the Department of Finance (Finance) or the Minister for Finance (Minister) under the *Freedom of Information Act 1982* (the FOI Act) you can have the decision reviewed. You may want to seek review if you sought certain documents and were not given full access, if you have been informed that there will be a charge for processing your request, if you have made a contention against the release of the documents that has not been agreed to by Finance or the Minister, or if your application to have your personal information amended was not accepted. There are two ways you can seek a review of our decision: an internal review (IR) by Finance or the Minister, or an external review (ER) by the Australian Information Commissioner (IC).

Internal Review (IR)

If, Finance or the Minister (we/our), makes a Freedom of Information (FOI) decision that you disagree with, you can seek a review of the original decision. The review will be carried out by a different decision maker, usually someone at a more senior level.

You must apply for an IR within 30 calendar days of being notified of the decision or charge, unless we agree to extend your time. You should contact us if you wish to seek an extension.

We are required to make an IR decision within 30 calendar days of receiving your application. If we do not make an IR decision within this timeframe, then the original decision stands.

Review by the Australian Information Commissioner (IC)

The Office of the Australian Information Commissioner (OAIC) is an independent office who can undertake an ER of our decision under the FOI Act. The IC can review access refusal decisions, access grant decisions, refusals to extend the period for applying for an IR, and IR decisions.

If you are objecting to a decision to refuse access to a document, impose a charge, or a refusal to amend personal information, you must apply in writing to the IC within 60 calendar days of receiving our decision.

Third parties

If you are a third party objecting to a decision to grant someone else access to your information, you must apply to the IC within 30 calendar days of being notified of our decision to release your information. Further assistance is located [here](#).

Do I have to go through the internal review process?

No. You may apply directly to the OAIC for an ER by the IC.

If I apply for an internal review, do I lose the opportunity to apply for an external review?

No. You have the same ER rights of our IR decision as you do with our original decision. This means you can apply for an ER of the original decision or of the IR decision.

Do I have to pay for an internal review or external review?

No. Both the IR and ER are free.

How do I apply?

Internal review

To apply for an IR of the decision of either Finance or the Minister, you must send your review in writing. We both use the same contact details, and you must send your review request in writing.

In your written correspondence, please include the following:

- a statement that you are seeking a review of our decision;
- attach a copy of the decision you are seeking a review of; and
- state the reasons why you consider the original decision maker made the wrong decision.

Email: foi@finance.gov.au

Post: The FOI Coordinator
Legal and Assurance Branch
Department of Finance
One Canberra Avenue
FORREST ACT 2603

External review (Information Commissioner Review)

For an ER, you must apply to the OAIC in writing. The OAIC ask that you commence a review by completing their online form [here](#).

Your application must include a copy of the notice of our decision that you are objecting to, and your contact details. You should also set out why you are objecting to the decision.

Email: FOIDR@oaic.gov.au

Post: Office of the Australian Information Commissioner
GPO Box 5218
Sydney NSW 2001

The IC's enquiries phone line is 1300 363 992.

Can I appeal the Information Commissioner's external review decision?

Yes. You can appeal the Information Commissioner's ER decision to the Administrative Appeals Tribunal (AAT).

There is a fee for lodging an AAT application (as at 1 June 2022 it is \$962).

Further information is accessible [here](#).

The AAT's number is 1800 228 333.

Complaints

Making a complaint to the Office of the Australian Information Commissioner

You may make a written complaint to the OAIC about actions taken by us in relation to your application.

Further information on lodging a complaint is accessible [here](#).

Investigation by the Commonwealth Ombudsman

The Ombudsman can also investigate complaints about action taken by agencies under the FOI Act. However, if the issue complained about either could be, or has been, investigated by the IC, the Ombudsman will consult with the IC to avoid the same matter being investigated twice. If the Ombudsman decides not to investigate the complaint, then they are to transfer all relevant documents and information to the IC.

The IC can also transfer a complaint to the Ombudsman where appropriate. This could occur where the FOI complaint is only one part of a wider grievance about an agency's actions. You will be notified in writing if your complaint is transferred.

Complaints to the Ombudsman should be made online [here](#).

The Ombudsman's number is 1300 362 072.