



OFFICE OF THE DEPUTY PRIME MINISTER AND MINISTER FOR DEFENCE

Freedom of Information Request 001/22/23 – Notice of Access Decision

1. I refer to the application by Paul Swain under the *Freedom of Information Act 1982* (FOI Act) for access to:

You recently represented Australia at CHOGM in Rwanda, thus giving the Australian Government another chance to raise the frozen UK State Pension issue with the members of the Commonwealth, and hopefully resolve it with the UK Government.

1. Could you please provide me with any documents that you or your office hold that shows that you attempted to raise and/or resolve the frozen UK State Pension issue during the recent CHOGM.

2. If you DID NOT attempt to raise and/or resolve the frozen UK State Pension issue during the recent CHOGM, could you please provide me with any documents that you or your office hold that show why the Australian Government did not attempt to raise and/or resolve this issue on this occasion.

FOI decision maker

2. I am the authorised officer pursuant to section 23 of the FOI Act to make a decision on this FOI request.

Documents identified

3. I identified nil documents as matching the scope of the request.

Decision

4. I have decided to refuse the request under section 24A [Requests may be refused if documents cannot be found, do not exist or have not been received] of the FOI Act.

Material taken into account

5. In making my decision, I had regard to:

- a. the terms of the request;
- b. relevant provisions in the FOI Act; and
- c. the Guidelines published by the Office of the Australian Information Commissioner under section 93A of the FOI Act (the Guidelines).

Reasons for decision

Section 24A – Requests may be refused if documents cannot be found, do not exist or have not been received

6. Section 24A(1) of the FOI Act states:

Document lost or non-existent

(1) An agency or Minister may refuse a request for access to a document

if:

(a) all reasonable steps have been taken to find the document; and

(b) the agency or Minister is satisfied that the document:

(i) is in the agency's or Minister's possession but cannot be found; or

(ii) does not exist.

7. Paragraph 3.94 of the Guidelines advises the detail should include to refuse a request under section 24A(1):

...the statement of reasons given to the applicant should sufficiently identify the document, explain why it cannot be found or is known not to exist or be in the agency's possession, describe the steps the agency took to search for the document, and note the limitations of any search...

8. To ensure that 'all reasonable steps' have been taken in relation to this request, every reasonable avenue of identifying documents related to the scope of the request have been exhausted.

9. The Department Liaison Offices conducted a global search on the Ministerial document storage systems, "G Drive" and the Parliamentary Document Management System (PDMS), using the search term "UK State Pension" "Commonwealth Heads of Government" followed by "CHOGM" for the period May 2022 to 29 June 2022 related to documents from the Deputy Prime Minister and Minister for Defence, the Hon Richard Marles MP's attendance at the Commonwealth Heads of Government Meeting in June 2022. No documents were located.

10. I am satisfied that 'all reasonable steps' have been taken to locate the documents sought by the applicant. I am satisfied that the documents cannot be found or do not exist, and refuse access to the request under section 24A(1) of the FOI Act.

Review Rights

11. Under the provisions of section 54L of the FOI Act, you are entitled to request an external review of this decision by the Office of the Australian Information Commissioner. You have 60 days to lodge such a request, and I have attached the relevant link to the [OAIC](#).

Kind regards



Samantha Ferry

Senior Advisor

11 August 2022