



Australian Government
Attorney-General's Department

Our ref: FOI22/233; CM 22/43627

Your ref: https://www.righttoknow.org.au/request/federal_integrity_agency

3 November 2022

John Smith

By email: foi+request-9388-717112ee@righttoknow.org.au

Dear Mr Smith

Freedom of Information Request FOI22/233 – Decision letter

The purpose of this letter is to give you a decision about your request for access to documents under the *Freedom of Information Act 1982* (the FOI Act) which you submitted to the Attorney-General's Department (the department).

Your request

On 20 September 2022, you requested access to:

I am writing to request documented proposed timelines for the establishment of a federal anti-corruption body.

On that same day, the department provided receipt of your request.

On 17 October 2022 the department wrote to you seeking an extension of time under s 15AA to finalise consultations for your request before the due date of 20 October 2022.

The department wrote to you again on 21 October 2022 to advise on the next steps for processing your request.

In this correspondence you were advised the department had applied to the Office of the Information Commission (OAIC) for an extension of time to finalise consultation for your request. The department also advised you the request would be processed and you could expect a decision from the department on or before 21 November 2022.

On 3 November 2022 the OAIC granted the department an extension of time for the decision to 4 November 2022.

My decision

I am an officer authorised under section 23(1) of the FOI Act to make decisions in relation to freedom of information requests made to the department.

I have identified one document that falls within the scope of your request. I did this by making inquiries of staff likely to be able to identify relevant documents and arranging for comprehensive searches of relevant departmental holdings.

In making my decision regarding access to the relevant document, I have taken the following material into account:

- the terms of your request
- the content of the documents identified as within scope of your request
- the provisions of the FOI Act
- the views of agencies consulted by the department
- the Guidelines issued by the Australian Information Commissioner under section 93A of the FOI Act (the Guidelines).

I have decided to grant access in part to one document pursuant to s 34(3) of the FOI Act.

Reasons for my decision

An agency or minister is not required to give access to a document or part of a document that is exempt from disclosure under Division 2 of Part IV of the FOI Act. Exempt documents in Division 2 of Part IV includes Cabinet documents (section 34)

This exemption is not subject to an overriding public interest test. Accordingly, where a document meets the criteria to establish a particular exemption, it is exempt and the decision-maker is not required to weigh competing public interests to determine if the document should be released.

Brief information about the exemption applied when making a decision about disclosure of the document to which you have requested access is set out below. Additional information about the exemptions can be obtained from the Oaic FOI Guidelines available at: <https://www.oaic.gov.au/freedom-of-information/foi-guidelines/part-5-exemptions>.

Section 34: Cabinet documents

Section 34 of the FOI Act states

- (1) A document is an exempt document if:
 - (a) both of the following are satisfied:
 - (i) it has been submitted to the Cabinet for its consideration, or is or was proposed by a Minister to be so submitted;
 - (ii) it was brought into existence for the dominant purpose of submission for consideration by the Cabinet; or
 - (b) it is an official record of the Cabinet; or
 - (c) it was brought into existence for the dominant purpose of briefing a Minister on a document to which paragraph (a) applies; or
 - (d) it is a draft of a document to which paragraph (a), (b) or (c) applies.
- (2) A document is an exempt document to the extent that it is a copy or part of, or contains an extract from, a document to which subsection (1) applies.
- (3) A document is an exempt document to the extent that it contains information the disclosure of which would reveal a Cabinet deliberation or decision, unless the existence of the deliberation or decision has been officially disclosed.

I have decided to apply section 34(3) to contents of the document for your request. My reasons for applying this exemption have been set out below.

I have had regard to the particular contents of the document for your request and consultations undertaken with the Department of the Prime Minister and Cabinet and the Australian Commission for Law Enforcement Integrity. I have also received advice from officers with responsibility for matters to which the

document relates. Based on this information, I am satisfied that the material I have refused access to in the document for your request is information which, if disclosed, would reveal Cabinet deliberations or decisions and those deliberations or decisions have not been officially disclosed.

I have therefore decided that this material is exempt pursuant to section 34(3) of the FOI Act.

Additional information

On 28 September 2022, the National Anti-Corruption Commission Bill 2022 and National Anti-Corruption Commission (Consequential and Transitional Provisions) Bill 2022 were introduced to Parliament. On the same day, the Bills were referred to the [Joint Select Committee on National Anti-Corruption Commission Legislation](#) for inquiry.¹ The Committee is due to report on 10 November 2022.

Subject to the passage of the legislation, the Commission is expected to commence operations in mid-2023.

Further information about the establishment of the Commission is available on the department's website at the following link: [National Anti-Corruption Commission Legislation | Attorney-General's Department \(ag.gov.au\)](#).

Your review rights under the FOI Act are set out at **Attachment A** to this letter.

The document to which I have decided to grant partial access under the FOI Act is at **Attachment B**.

Questions about this decision

If you wish to discuss this decision, the FOI case officer for this matter is Joanna, who can be reached on (02) 6141 6666 or by email to foi@ag.gov.au.

Yours sincerely



Lucinda Atkinson
Assistant Secretary
National Anti-Corruption Commission Taskforce

Attachments

Attachment A: Review rights
Attachment B: Document

¹ https://www.aph.gov.au/Parliamentary_Business/Committees/Joint/National_Anti-Corruption_Commission_Legislation



Attachment A - FOI Review rights

If you are dissatisfied with the decision of the Attorney-General's Department (the department), you may apply for internal review or Information Commissioner review of the decision.

The department encourages applicants to consider seeking internal review as a first step as it may provide a more rapid resolution of your concerns.

Internal review

Under section 54 of the *Freedom of Information Act 1982* (FOI Act), applications for internal review must be made in writing within 30 days of the date of the decision letter, and be lodged in one of the following ways:

email: foi@ag.gov.au

post: Freedom of Information and Privacy Section
Strategy and Governance Branch
Attorney-General's Department
3-5 National Circuit BARTON ACT 2600

An officer of the department other than the officer who made the original decision will complete the internal review within 30 days of receipt of your request.

Providing reasons you believe internal review of the decision is necessary will facilitate the completion of the internal review.

Information Commissioner review

Under section 54L of the FOI Act, you may apply to the Australian Information Commissioner to review my decision. An application for review by the Information Commissioner must be made in writing within 60 days of the date of the decision letter, and be lodged in one of the following ways:

online: https://forms.business.gov.au/smartforms/servlet/SmartForm.html?formCode=ICR_10

email: foidr@oaic.gov.au

post: GPO Box 5218 Sydney NSW 2001

More information about Information Commissioner review is available on the Office of the Australian Information Commissioner website at <https://www.oaic.gov.au/freedom-of-information/reviews-and-complaints/information-commissioner-review/>.