



OFFICIAL

Freedom of Information (FOI) request

Notice of Decision

Reference: FOI/2022/307

To: Mr John Walker

foi+request-9466-034241b1@righttoknow.org.au

Dear Mr Walker

I refer to your request to the Department of the Prime Minister and Cabinet (the Department), under the *Freedom of Information Act 1982* (the FOI Act), received on 14 October 2022.

The purpose of this letter is to provide you with a decision on your request for access under the FOI Act.

Scope of request

You set out your request in the following terms:

I seek access to the initial document that your department received from the United States of America in relation to the Executive Order on Modernizing Influenza Vaccines Executive Order of Donald J. Trump.

I also seek the initial correspondence from Joe Biden in relation to the abovementioned Order.

Authorised decision-maker

I am authorised to make this decision in accordance with arrangements approved by the Department's Secretary under section 23 of the FOI Act.

Material taken into account

In reaching my decision I have had regard to the following:

- the terms of your request
- searches and inquires undertaken by the Department
- the FOI Act

- the FOI Guidelines issued by the Information Commissioner¹ (the Guidelines)

Decision

I have decided to refuse your request under section 24A(1) of the FOI Act, on the grounds that the Department has taken all reasonable steps to locate the documents you have requested, and those documents do not exist.

Reason for decision

My findings of fact and reasons for deciding to refuse your request are set out below.

1. Documents cannot be found or do not exist

Section 24A(1) of the FOI Act provides that:

- (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.*

In determining what the FOI Act means with respect to 'all reasonable steps', I have had regard to the Guidelines which discuss the meaning of 'reasonable' in section 24A(1)(a). It is not designed to go beyond the limit assigned by reason, not to be extravagant or excessive, rather to be moderate and of such an effort to be appropriate or suitable to the circumstances².

The Department has conducted a search for any relevant records that would meet the terms of your request in its electronic record repositories. There were no documents found to be in the possession of the Department.

The Department has also undertaken enquiries with the COVID-19 Taskforce and Health Branch, regarding any relevant records that would meet the terms of your request. They advised, based on their knowledge the Department does not hold documents relevant to the terms of your request.

I am satisfied that these steps are appropriate and suitable given the circumstances. After taking all reasonable steps to find the documents, no documents relevant to your request have been identified.

Accordingly, I am refusing your request for access as documents do not exist.

¹ Section 93A of the FOI Act

² Paragraph 3.88 of the FOI Guidelines

Review rights

If you disagree with my decision, you may apply for internal review or Information Commissioner review of the decision.

Internal review

Under section 54 of the FOI Act, you may apply in writing to the Department for an internal review of my decision. The internal review application must be made within 30 days after the date of this letter, please attach the reasons why you disagree with the decision.

Applications for review should be sent to foi@pmc.gov.au.

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 after the date of this letter.

More information about Information Commissioner review is available [here](#).³

FOI Complaints

If you are unhappy with the way we have handled your FOI request, please let us know what we could have done better. We may be able to rectify the problem. If you are not satisfied with our response, you can make a complaint to the Australian Information Commissioner. A complaint to the Information Commissioner must be made in writing. More information about complaints is available [here](#).⁴

If you wish to discuss any aspect of your requests, you can contact the FOI Section by email at foi@pmc.gov.au.

Yours sincerely



Ash Collingburn

Assistant Secretary

Global Interests Branch

Department of the Prime Minister and Cabinet

8 November 2022

³ <https://www.oaic.gov.au/freedom-of-information/reviews-and-complaints/information-commissioner-review>

⁴ <https://www.oaic.gov.au/freedom-of-information/reviews-and-complaints/make-an-foi-complaint>