



Our reference: FOIREQ22/00424

Attention: Verity Pane (Right to Know)

By Email: foi+request-9648-76231914@righttoknow.org.au

Your Freedom of Information Request – FOIREQ22/00424

Dear Ms Pane,

I refer to your request for access to documents made under the *Freedom of Information Act 1982* (Cth) (the FOI Act) and received by the Office of the Australian Information Commissioner (OAIC) on 4 December 2022.

In your request you seek access to the following:

“I seek copy of any document held by the OAIC concerning the use of third party drop boxes and/or other mechanisms used in lieu of giving decisions, notices or documents to addresses given for notices by foi applicants

A limited number of agencies have recently been using such third parties (like Proofpoint or Macquarie Government drop boxes) that only allow one time limited access that requires registration and collection of personal information to use. Anyone can get that information, but only once and only in a very short period, so it is not a security feature to limit access to the foi applicant.

This method prevents the foi decisions, notices or documents from being accessible here on Right to Know to the public - even when the decision or documents released contain no personal information of any person.

These are the same agencies who do not make their disclosure log accessible online and send disclosure log requests again through these third party drop boxes. So this barrier to making these foi decisions, notices or documents searchable by Right to Know and Google is only to reduce the public's ability to access government information.

The point of Right to Know is to make accessing government information easier given some agencies have intentionally made disclosure log access excessively difficult. Those small number of agencies have deployed these unethical strategies to counter that.

So in addition to the above foi application I also seek response from the OAIC what steps it is taking or intends to take to rein in this intentional use of these one use time

limited drop boxes to circumvent the open access principles of Right to Know of government information.”

Decision

I am an officer authorised under s 23(1) of the FOI Act to make decisions in relation to FOI requests.

I have decided to refuse your request for documents under s 24A of the FOI Act on the basis that all reasonable steps have been taken to find the documents you requested but no documents exist.

Reasons for decision

Material taken into account

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

- your freedom of information request dated 4 December 2022;
- the FOI Act, in particular section 24A;
- the Guidelines issued by the Australian Information Commissioner under s 93A of the FOI Act (the FOI Guidelines), specifically paragraphs [2.33] – [2.34] and [3.85];
- searches conducted by the OAIC’s Freedom of Information Dispute Resolution line areas.

Documents cannot be found or do not exist – s 24A

I have refused your request for documents under s 24A of the FOI Act on the basis that all reasonable steps have been taken to find the documents and no documents exist.

Section 24A provides:

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

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.

Searches Undertaken

In conducting searches for documents relevant to your request, I consulted with the OAIC's Freedom of Information Dispute Resolution line area.

The line area provided the following responses to the scope of your request:

"I have undertaken a search and I have not found any relevant documents that fall within the scope of this request.

Specific details of the searches I have undertaken are:

- 1. Searching content manager for relevant documents using the search terms 'drop box', 'dropbox', 'sigbox', 'file shar*')*
- 2. I have reviewed the Disclosure log desktop review [Disclosure Log Desktop Review - Home \(oaic.gov.au\)](https://www.oaic.gov.au/disclosure-log-desktop-review-home) and there is no mention in that report of agencies using drop boxes.*
- 3. I have reviewed agency comments in the disclosure log desk top review container folder in content manager and there are no comments or documents relevant to agencies using drop boxes.*
- 4. I have searched Resolve for general enquiries and our responses using the terms 'drop box', 'dropbox', 'sigbox', 'file shar*' and 'disclosure log'."*

"I have conducted a search of the FOIDR mailbox [inbox and actioned items] based on the terms 'drop box', 'dropbox', 'file share' and 'file sharing' and could not locate any relevant records. The only results produced under the term 'dropbox' were notifications from agencies to the OAIC about delivery of submissions or documents to the OAIC via dropbox for the purposes of an IC review application.

I have also conducted a search of Enquiry files in Resolve based on each of the above search terms in the Summary screen, however this only produced one FOI-related result in 2021 [EN21/04905] which is not relevant, as it was an enquiry from an agency about delivering documents to the OAIC using a dropbox. No FOI-related results were produced in 2022, or in previous years 2019 or 2020. [There were a small number of privacy-related enquiries with respect to the handling of personal information through use of drop box platforms, but this is not relevant to the FOI request].

In relation to the FOI applicant's enquiry 'what steps [the OAIC] is taking or intends to take to rein in this intentional use of these one use time limited drop boxes', I am not aware of any investigations having been undertaken into this issue nor any regulatory advice on the issue.

I have also reviewed FOI complaints and IC reviews summary fields based on these terms which did not yield any results. The issue strings in FOI complaints and IC review files do not capture this particular issue so there appears no utility in undertaking a search of issues.”

“I have undertaken searches through my inbox using the terms drop box , dropbox , sigbox , file shar. I have not found any documents within the scope of the request.”*

I have reviewed the numerous searches undertaken by the line area and am satisfied that no documents relevant to your request were found. Based on the searches conducted and the information before me at this time, I am satisfied that no documents exist within the scope of your request on the OAIC’s systems.

Conclusion

Based on the advice of the Freedom of Information Dispute Resolution line area who conducted the various searches and the terms of your request, I am satisfied that all reasonable steps have been taken to find documents that fall within the scope of your request and that the documents do not exist.

Therefore, I refuse your request for access to documents under s 24A of the FOI Act on the basis that no documents exist.

Your review rights are outlined on the following page.

Yours sincerely

Alessia Mercuri
Lawyer
3 January 2023

If you disagree with my decision

Internal Review

You have the right to apply for an internal review of my decision under Part VI of the FOI Act. An internal review will be conducted, to the extent possible, by an officer of the OAIC who was not involved in or consulted in the making of my decision. If you wish to apply for an internal review, you must do so in writing within 30 days. There is no application fee for internal review.

If you wish to apply for an internal review, please mark your application for the attention of the FOI Coordinator and state the grounds on which you consider that my decision should be reviewed.

Applications for internal reviews can be submitted to:

Office of the Australian Information Commissioner

GPO Box 5218

SYDNEY NSW 2001

Alternatively, you can submit your application by email to foi@oaic.gov.au, or by fax on 02 9284 9666.

Further Review

You have the right to seek review of this decision by the Information Commissioner and the Administrative Appeals Tribunal (AAT).

You may apply to the Information Commissioner for a review of my decision (IC review). If you wish to apply for IC review, you must do so in writing within 60 days. Your application must provide an address (which can be an email address or fax number) that we can send notices to, and include a copy of this letter. A request for IC review can be made in relation to my decision, or an internal review decision.

It is the Information Commissioner's view that it will usually not be in the interests of the administration of the FOI Act to conduct an IC review of a decision, or an internal review decision, made by the agency that the Information Commissioner heads: the OAIC. For this reason, if you make an application for IC review of my decision, and the Information Commissioner is satisfied that in the interests of administration of the Act it is desirable that my decision be considered by the AAT, the Information Commissioner may decide not to undertake an IC review.

Section 57A of the FOI Act provides that, before you can apply to the AAT for review of an FOI decision, you must first have applied for IC review.

Applications for IC review can be submitted online at:

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

Alternatively, you can submit your application to:

Office of the Australian Information Commissioner

GPO Box 5218

SYDNEY NSW 2001

Or by email to foidr@oaic.gov.au, or by fax on 02 9284 9666.

Accessing your information

If you would like access to the information that we hold about you, please contact FOIDR@oaic.gov.au. More information is available on the Access our information page on our website.